

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 32676 of 2015 (H)

PETITIONER :

CHANDRABHANU, AGED 67 YEARS
PADATH VELIYIL, PERUMTHURUTHU MURI, KANJIKUZHI VILLAGE
S.L.PURAM.P.O, PIN-688523.

BY ADV. SRI.K.G.PAVITHRAN

RESPONDENTS :

1. CHELLAPPAN,
S/O.AYYAPPAN, RESIDING AT SAJI NIVAS, PADATHU VELIYIL
POERUMTHURUTHU MURI, KANJIKUZHI VILLAGE, S.L.PURAM.P.O
PIN-688523.
2. THANKAMMA PADMAKSHI,
W/O.CHELLAPPAN, SAJI NIVAS, PADATHU VELIYIL
POERUMTHURUTHU MURI, KANJIKUZHI VILLAGE, S.L.PURAM.P.O
PIN-688523.
3. SAJIMON,
S/O.CHELLAPPAN, SAJI NIVAS, PADATHU VELIYIL
POERUMTHURUTHU MURI, KANJIKUZHI VILLAGE, S.L.PURAM.P.O
PIN-688523.
4. SURENDRAN,
S/O.KRISHNAN, VALECHIRAYIL, PERUMTHURUTHU MURI
KANJIKUZHI VILLAGE, S.L.PURAM.P.O, PIN-688523.
5. SUB INSPECTOR OF POLICE,
MARARIKULAM POLICE STATION, PIN-688523.
6. CIRCLE INSPECTOR OF POLICE,
MARARIKULAM, PIN-688523.

R5 & R6 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 32676 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE
5TH RESPONDENT DT.13.10.2010.

EXT.P1(A) TRUE COPY OF THE TRANSLATION OF THE EXT.P1.

EXT.P2 TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE
THE 5TH RESPONDENT DATED 22.10.2010.

EXT.P2(A) TRUE COPY OF THE TRANSLATION OF THE EXT.P2.

EXT.P3 TRUE COPY OF THE JUDGMENT DTAED 23.12.2011 IN O.S.184/2010 OF
THE MUNSIFF'S COURT,ALAPPUZHA.

EXT.P4 TRUE COPY OF THE JUDGMENT DATED 21.12.2013 IN A.S.10/2012,.ON
THE FILE OF THE DISTRICT COURT,ALAPPUZHA.

EXT.P5 TRUE COPY OF THE PETITION DT.14.12.14 FILED BY THE PETITIONER
IN I.A.3143/14 IN R.S.A.NO.433/14,HIGH COURT OF KERALA.

EXT.P6 TRUE COPY OF THE ORDER PASSED BY THE HIGH COURT OF
KERALA,DATED 28.7.15 IN I.A.3143/14 IN R.S.A.433/14.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.P.(C) No.32676 of 2015

Dated this the 28th day of October 2015

J U D G M E N T

Shaffique, J.

The petitioner has approached this Court seeking for police protection. It is submitted that on account of the obstruction created by respondents 1 to 4 with reference to use of a pathway, the petitioner had filed a suit, O.S.No.184 of 2010 before the Munsiff's Court, Alappuzha. The said suit was decreed and an injunction was granted restraining respondents 1 to 4 from interfering with the use of pathway by the petitioner.

2. Respondents 1 to 3 preferred an appeal before the District Court, Alappuzha as A.S.No.10 of 2012 and the Appellate Court allowed the appeal and dismissed the suit. The petitioner preferred Second Appeal before this Court as R.S.A.No.433 of 2014, wherein, a stay of operation of the judgment in appeal has been given. The petitioner also filed an application before this Court seeking for implementing the order of stay by the police, which came to be disposed of by order dated 28.7.2015.

3. The fact remains that the parties are involved in a civil suit and a Second Appeal is pending before this Court, there is no

-: 2 :-

interim injunction in force and the suit filed by the petitioner was dismissed by the Appellate Court against which a Second Appeal is filed before this Court, wherein, stay of operation of the judgment in appeal was granted, that does not apparently mean that there is injunction which can be enforced by police with a direction of the Court.

Under such circumstances, we do not think that any direction as sought for can be granted in this writ petition. However, it shall be open for the petitioner to approach the appellate court for appropriate relief. Accordingly, this writ petition is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE