

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 33363 of 2014 (U)

PETITIONER(S):

1. K.JOHN @ ASHOK AGED 64 YEARS
MAMUTTIL ESTATE, OOTTUPARA, ARUVAPPULAM VILLAGE
KONNI TALUK, PATHANAMTHITTA DISTRICT
NOW RESIDING AT 9 B-2, CONDOR DAFFODILS
UPPER MERIDIAN ROAD, KOWDIAR P.O.
THIRUVANANTHAPURAM-695 003.

2. DR. ANNIE JOHN
W/O. K.JOHN OOTTUPARA, ARUVAPPULAM VILLAGE
KONNI TALUK, PATHANAMTHITTA DISTRICT
NOW RESIDING AT 9 B-2, CONDOR DAFFODILS
UPPER MERIDIAN ROAD, KOWDIAR P.O.
THIRUVANANTHAPURAM-695 003.

BY ADV. SRI. K.JOHN @ ASHOK (PARTY-IN-PERSON)

RESPONDENT(S):

1. THE STATE POLICE CHIEF
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM-695 005.

2. DISTRICT POLICE CHIEF
PATHANAMTHITTA DISTRICT-689 001.

3. SUB INSPECTOR OF POLICE
KONNY, PATHANAMTHITTA DISTRICT-689 690.

4. SRI. THOMAS NINAN (DECEASED)
KARIPPACHERIL HOUSE, OOTTUPARA P.O.
ARUVAPPULAM VILLAGE, KONNI
PATHANAMTHITTA DISTRICT-689 690.(DELETED).

5. SRI. REJI NINAN
RESIDING AT KARIPPACHERIL HOUSE, OOTTUPARA P.O.
ARUVAPPULAM VILLAGE, KONNI
PATHANAMTHITTA DISTRICT-689 690.

6. SRI. RISHI NINAN
RESIDING AT KARIPPACHERIL HOUSE, OOTTUPARA P.O.
ARUVAPPULAM VILLAGE, KONNI
PATHANAMTHITTA DISTRICT-689 690.

WP(C).No. 33363 of 2014

7. SRI. JOSEPH (DECEASED)
S/O. MATHAI, PANAMTHOTTATHIL VEEDU, OOTTUPARA P.O.
ARUVAPPULAM VILLAGE, KONNI
PATHANAMTHITTA DISTRICT-689 690. (DELETED) .

8. SRI.DANIEL YOHANNAN
EDAPURAYIL VEEDU, OOTTUPARA P.O., ARUVAPPULAM VILLAGE
KONNI, PATHANAMTHITTA DISTRICT-689 690.

9. SRI. N.D.ABRAHAM
RESIDING AT EDAPURAYIL VEEDU, OOTTUPARA P.O.
ARUVAPPULAM VILLAGE, KONNI
PATHANAMTHITTA DISTRICT-689 690.

10. SADANAN
S/O.RAJU, PATHEKKAR MURUPEL HOUSE, OOTTUPARA P.O.
ARUVAPPULAM VILLAGE, KONNI
PATHANAMTHITTA DISTRICT-689 690.

11. SMT. PADMINI
W/O. SADANAN, RESIDING AT PATHEKKAR MURUPEL HOUSE
OOTTUPARA P.O., ARUVAPPULAM VILLAGE, KONNI
PATHANAMTHITTA DISTRICT-689 690.

12. SMT. LEKSHMI
W/O. PADMANABHAN
RESIDING AT PATHEKKAR MURUPEL HOUSE, OOTTUPARA P.O.
ARUVAPPULAM VILLAGE, KONNI
PATHANAMTHITTA DISTRICT-689 690.

R4 AND R7 ARE DELETED FROM PARTY ARRAY AS PER
ORDER DATED 11.12.2014.

R1-R3 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE COMMON JUDGMENT IN OS NO.240/1996, OS NO.28/1993 AND OS NO.73/93, OF SUB COURT, PATHANAMTHITTA, DTD.27.2.2003.

P2 : COPY OF THE AS NO.110/2003 (APPEAL AGAINST DECREE AND JUDGMENT IN OS NO.240/1996 ON THE FILE OF SUB COURT, PATHANAMTHITTA), AS NO.112/2003 (APPEAL AGAINST THE DECREE AND THE JUDGMENT IN OS NO.28/1993 ON THE FILES OF SUB COURT, PATHANAMTHITTA) AND AS NO.117/2003 (APPEAL AGAINST DECREE AND JUDGMENT IN OS NO.73/93 OF THE FILES OF SUB COURT, PATHANAMTHITTA), DTD.20.12.2005.

P3 : COPY OF THE JUDGMENT IN OS NO.326/1995 OF HON'BLE MUNSIFF COURT, PATHANAMTHITTA, JUDGMENT DTD.30.6.2001.

P4 : COPY OF THE JUDGMENT IN CCC NO.254/1997 OF THIS HON'BLE COURT DTD.23.10.1997.

P5 : COPY OF THE ORDER IN MC NO.46/1997 OF THIS HON'BLE SUB DIVISIONAL MAGISTRATE COURT, ADOOR, PATHANAMTHITTA DTD.20.5.1998.

P6 : COPY OF THE REPRESENTATION SENT TO THE DISTRICT SUPERINTENDENT OF POLICE, PATHANAMTHITTA, DTD.18.10.2014.

RESPONDENT(S) ' EXHIBITS

ANNEXURE R3(a): COPY OF PETITION NO.IAPS 1449/2015 DATED 4.1.2015.

ANNEXURE R3(b): COPY OF RECEIPT DATED 4.1.2015.

ANNEXURE R3(c): COPY OF PHOTOGRAPH OF THE LAND.

ANNEXURE 43(e): COPY OF PHOTOGRAPHS OF THE ROOTS OF TREES.

ANNEUXRE R3(f): COPY OF COMMUNICATION NO.10/CAMP/DGP/2003 DATED 26.2.2003.

/TRUE COPY/

PS TO JUDGE

ASHOK BHUSHAN, Ag.CJ & A.M.SHAFFIQUE, J

W.P(C).No. 33363 of 2014

Dated this the 27th January, 2015

JUDGMENT

Ashok Bhushan, Ag.CJ.

Heard the first petitioner, who appeared in person and the learned State Attorney. No notice has been issued to respondents 8 to 12. Respondents 4 to 7 have already been deleted from the party array as per order dated 11.12.2014.

2. By this Writ Petition the petitioners have prayed for the following reliefs:

“i) Issue a writ of mandamus or writ of similar nature or order or direction commanding respondents 1 to 3, to grant adequate police protection, to prevent further trespass by respondents 5, 6 and 8 to 12 and their agents into the petitioners' property, known as Mamuttil Estate under Survey No.540-1-1-679, of Aravappulam Village, Konni Taluk, Pathanamthitta District.

ii) To grant such other reliefs which the petitioners may seek from time to time and this Hon. High Court deems fit to be granted for the ends of justice."

3. The petitioners' case in the Writ Petition is that the first petitioner is in possession of property known as Mamoottil Estate under Survey No.540-1-1-679 consisting of 5.30 acres of land at Aruvappulam Village, Konni, Pathanamthitta District. Reference has been made in the Writ Petition of Original Suits being O.S.Nos.240/1996, 28/1993, 67/1993 and 73/1993. Reference has also been made to judgment and decree dated 27.2.2003. The averments in substance is that with regard to the property there has already been a decree of the trial court which was confirmed by the appellate court directing the respondents as well as public in general from trespassing and interfering with the petitioners' right. The first petitioner submits that he is residing at Thiruvananthapuram and occasionally he visits his property and on his visit he found that there was trespass

and damage to the property. Complaint was submitted to the Police concerned.

This Court passed an order directing the third respondent to file report. A report has been submitted by the third respondent dated 24.1.2015. The complaint which was filed before the Police authorities has also been brought on record as well as the complaint received on 4.1.2015. Certain photographs have also been annexed as Annexure R3(c), R3(d) and R3(e). Letter dated 6.4.2013 has also been brought on record. In paragraph 10 of the report the following has been stated:

“10. It is submitted that from the enquiry conducted by me I came to the conclusion that there is not even an iota of truth in the allegations made by the petitioner. From the conduct of the petitioner it is evident that he is a frivolous and vexatious litigant who is always misusing the provisions of law by which false and baseless complaints with malafide objects are being filed to achieve his goals which gives him some sort of mental satisfaction. He has

the bahit of giving false information to the police authorities so as to mislead the Investigating agency. However, if the petitioner approaches the police with genuine complaints, the police authorities are ready to conduct enquiry and do the needful. As of now there is neither any threat to the life of the petitioners nor any law and order issue to accord police protection.”

4. A perusal of the Writ Petition and the report indicates that there is reference of certain events which took place seven to fifteen years ago and further incidents alleged to have been taken place in 2012 and 2013. It was categorically stated in the report that if the petitioners approach the Police with genuine complaints, the authorities are ready to conduct enquiry and do the needful. It was further stated that at present there is no threat to the life of the petitioners.

5. In the above view of the matter, we are of the view that the petitioners having already obtained orders from the Civil Court regarding their title and enjoyment of the

property, in the event any offence is committed or attempted by any private respondents or their agents, it is open for the petitioners to submit appropriate complaint to the third respondent, who may look into the complaint and take appropriate action in accordance with law.

With the above observation, the Writ Petition is disposed of.

**ASHOK BHUSHAN
ACTING CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs27/1/15