

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIFIQUE

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 33836 of 2014 (D)

PETITIONER(S) :

K. MUHAMMEDKUTTY AGED 69 YEARS
S/O.KARUTHEDATH UNNIYALI,
NILAMBUR R.S. P.O., NILAMBUR
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S) :

1. THE KERALA STATE HUMAN RIGHTS COMMISSION
TURBO PLUS TOWERS, P.M.G. JUNCTION, VIKAS BHAVAN
TRIVANDRUM, REPRESENTED BY ITS REGISTRAR-695001.

2. FATHIMA BEEVI
D/O.KANNATTIL ALAVIKUTTY, JUWEL SHADOW APARTMENT
FLAT NO.C1, NATIONAL PUBLIC SCHOOL ROAD,
DESABHIMANI, KOCHI-682017.

3. THE STATION HOUSE OFFICER
NILAMBUR POLICE STATION, NILAMBUR
MALAPPURAM DISTRICT-679332.

R2 BY ADV. SRI.ALEXANDER GEORGE
R1 BY ADV. SRI.K.ANAND (SR.) & ADV. SMT.LATHA KRISHNAN
BY GOVERNMENT PLEADER SMT. LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 06-03-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C).No. 33836 of 2014 (D)

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE JUDGMENT DATED
6-8-2007 IN W.P.C. NO. 23218/2007 OF THIS
HON'BLE COURT

EXT.P2: TRUE COPY OF THE JUDGMENT IN
O.S.NO. 36/2008 OF THE MUNSIFF COURT,
MANJERI, DATED 28-2-2013

EXT.P3: TRUE COPY OF THE APPEAL
MEMORANDUM IN A.S. NO. 60/2013 OF THE
DISTRICT COURT, MANJERI

EXT.P4: TRUE COPY OF THE ORDER IN HRMP NO.
6970/2013 DATED 17-10-2014 WHICH WAS ISSUED ON
29-11-2014.

/TRUE COPY/

P.S. TO JUDGE

A.M. SHAFFIQUE, J.

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W.P. (C) No. 33836 of 2014 - D
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Dated : 06-03-2015

JUDGMENT

Petitioner challenges Ext. P4 order dated 17-10-2014 passed by the Human Rights Commission directing the police to ensure that the direction issued by the Civil Court has to be complied with and that sufficient protection shall be granted to the petitioner to ensure her possession in the property.

2. The main contention urged by the petitioner is that though the 2nd respondent has obtained a decree in O.S. NO. 36/2008 from the Munsiff's Court, Manjeri, the petitioner has preferred an appeal as A.S. No. 60/2014 before the District Court, Manjeri. While the appeal was pending, the 2nd

respondent had approached the Human Rights Commission and without notice to the petitioner, the aforesaid order came to be passed. Thus, according to the petitioner it is without jurisdiction and in violation of the principles of natural justice. Petitioner also submits that earlier W.P.C. No. 23218/2007, was filed by the 2nd respondent's mother seeking police protection before this Court which came to be dismissed permitting the petitioner to approach the Civil Court.

3. It is pointed out by the learned counsel appearing for the first respondent that Ext. P4 order is subject to any stay that might be granted by the Civil Court. The learned counsel appearing for the 2nd respondent submits that no stay has been granted in A.S. No. 60 of 2013 pending before the District Court, Manjeri.

4. Having regard to the aforesaid submission, it is clear that an injunction has been granted by the Civil Court restraining

defendants which includes the petitioner herein from trespassing into the plaint schedule property or from committing any act of waste therein. It is, therefore, apparent that the Civil Court has found that the 2nd respondent is in possession of the plaint schedule property and the defendants including the petitioner herein has no right to claim possession of the plaint schedule property. Under such circumstances, the 2nd respondent has approached the Human Rights Commission seeking police protection. The said authority has called for a report from the Sub Collector who had reported that sufficient protection is to be granted, based on which the impugned order came to be passed.

5. It is, therefore, clear that the 2nd respondent's possession has been approved by the Civil Court, and if the Human Rights Commission, in exercise of the powers vested in it, directed the police to ensure maintenance of law and order, I do not think that this Court should exercise the power under Article 226 of the

Constitution of India to interfere with such orders as it will not affect the right of the petitioner in any manner. It is clearly provided that the direction is subject to any stay order that might be passed by the Civil Court. Under such circumstances, the petitioner's right has also been taken care of. In the facts and circumstances of the case, especially, in view of the decree passed by a Civil Court and report of the Revenue Divisional Officer, issuance of notice by the Human Rights Commission would only amount to empty formality, as it will not affect the petitioner's right in any manner.

In the result, I do not find any merit in the above Writ Petition, and accordingly, this Writ Petition is dismissed.

Sd/- A.M. SHAFFIQUE
(Judge)

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P.S. to Judge