

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C) .No. 33871 of 2014 (H)

PETITIONER:

NIKUNJAM CONSTRUCTIONS PVT. LTD.,
INDRAPRASTHAM, TC4/2554(3), PATTOM-KOWDIYAR ROAD,
PATTOM P.O.
THIRUVANANTHAPURAM-695504
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADVS.SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SMT.R.BINDU
SRI.JOHNSON JOSE PANJIKKARAN
SMT.PRABHA JOSE
SMT.P.ANJANA
SRI.T.S.ABDUL KHADER

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY
DEPARTMENT OF HOME AFFAIRS, SECRETARIAT
THIRUVANANTHAPURAM-695001.

2. THE CITY COMMISSIONER OF POLICE
THIRUVANANTHAPURAM CITY
OFFICE OF THE CITY COMMISSIONER OF POLICE
THIRUVANANTHAPURAM-695007.

3. ASSISTANT COMMISSIONER OF POLICE,
OFFICE OF ASSISTANT COMMISSIONER OF POLICE
SHANKUMUGHAM, THIRUVANANTHAPURAM-695007.

4. SUB INSPECTOR OF POLICE
PETTAH POLICE STATION, THIRUVANANTHAPURAM-695024.

5. CIRCLE INSPECTOR OF POLICE
CIRCLE OFFICE, PETTAH, THIRUVANANTHAPURAM-695024.

6. GOPAKUMAR
COUNSELLOR, KADAKAMPALLY WARD
RESIDING AT T.C.30/279 SREENILAYAM, KALLUMOODU
ANAYARA, THIRUVANANTHAPURAM-695029.

R6 BY ADV. SRI.THOMAS ABRAHAM
R6 BY ADV. SMT.MERCIAMMA MATHEW
R6 BY ADV. SRI.V.RENJITH KUMAR
R6 BY ADV. SRI.ASWIN.P.JOHN
BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: TRUE COPY OF THE BUILDING PERMIT, ISSUED BY THE TRIVANDRUM CORPORATION, FOR THE CONSTRUCTION OF THE 12 STORIED RESIDENTIAL BUILDING, DATED 28.5.2013.

EXHIBIT P1(A): TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P1.

EXHIBIT P2: TRUE COPY OF THE JUDGMENT DATED 11.10.2013 IN WPC NO.23580 OF 2013.

EXHIBIT P3: TRUE COPY OF THE COMPLAINT DATED 18.9.2014 SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT OF COMPLAINT GIVEN BY THE 5TH RESPONDENT.

EXHIBIT P4(A): TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P4.

EXHIBIT P5: TRUE COPY OF THE REPRESENTATION DATED 13.11.2014 SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT.

EXHIBIT P6: THE ACKNOWLEDGMENT OF RECEIPT OF THE COMPLAINT GIVEN BY THE 5TH RESPONDENT.

EXHIBIT P6(A): TRUE COPY OF ENGLISH TRANSLATION OF EXHIBIT P6.

EXHIBIT P7: TRUE COPY OF THE REPRESENTATION DATED 13.11.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P8: THE ACKNOWLEDGMENT EVIDENCING RECEIPT OF THE COMPLAINT ISSUED BY THE OFFICE OF THE DISTRICT POLICE CHIEF.

EXHIBIT P9: TRUE COPY OF THE LETTER DATED 31.10.2014 ISSUED BY M/S. GEO FOUNDATIONS AND STRUCTURES (P) LTD. TO THE PETITIONER.

EXHIBIT P10: TRUE COPY OF F.I.R NO.1326 OF 2014 DATED 5.12.2014 BEFORE THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM.

EXHIBIT P11: TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P10.

EXHIBIT P12: THE PHOTOGRAPH TAKEN IMMEDIATELY AFTER THE ILLEGAL ACTS WERE COMMITTED BY THE 6TH RESPONDENT AND HIS HENCHMEN.

EXHIBIT P13: TRUE COPY OF THE COMPLAINT DATED 10.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE CITY POLICE COMMISSIONER THIRUVANANTHAPURAM, THE 2ND RESPONDENT.

EXHIBIT P14: TRUE COPY OF THE ACKNOWLEDGMENT INDICATING THE RECEIPT OF
THE REPRESENTATION DATED 10.12.2014 ISSUED BY THE CITY POLICE
COMMISSIONER, THIRUVANANTHAPURAM.

RESPONDENTS' EXHIBITS:NIL

/TRUE COPY/

P.S TO JUDGE

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ASHOK BHUSHAN, CJ. & K. RAMAKRISHNAN, J.

.....
W.P.(C).No.33871 of 2014

.....
Dated this the 16th day of December, 2015

JUDGMENT

Ashok Bhushan, CJ.

Heard learned counsel for the petitioner, learned State Attorney, learned Government Pleader as well as learned counsel for the 6th respondent.

2. This writ petition has been filed by the petitioner seeking a direction to respondents 1 to 5 to provide sufficient protection for carrying out his construction works from the obstruction and threat of the 6th respondent and his henchmen.

3. Petitioner's case is that obstruction is created in the construction activities by the 6th respondent who has been acting as a councillor. Petitioner had earlier also come up in W.P.(C)No.23580/2013, where an order has been passed on 11.10.2013 providing police protection.

4. Learned counsel for the 6th respondent submits that there are violations in the construction.

5. This Court passed an interim order on 16th December, 2014 directing respondents 4 and 5 to take appropriate steps to ensure that no obstruction is created in the petitioner's work

site.

5. Learned counsel for the petitioner submits that the construction work is going on with the protection provided by the police.

In so far as the submission of the 6th respondent is concerned, for any alleged violation, it is for the competent local authority to take appropriate action. However, no physical obstruction can be caused to the construction on the said ground. In the above view of the matter, we close the writ petition with direction to respondents 4 and 5 to ensure that there is no obstruction in carrying out the work in accordance with Ext.P1.

Sd/-

**ASHOK BHUSHAN,
CHIEF JUSTICE.**

Sd/-

**K. RAMAKRISHNAN,
JUDGE.**

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