

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 34579 of 2015 (V)

PETITIONER(S) :-

P.K.PRADEEPKUMAR, AGED 43 YEARS
S/O.CHINNAN, RESIDING AT PATTAYIL KEERANGATT HOUSE
POST CHELEMBRA, MALAPPURAM.

BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH
SMT.SANIKA.V.S.
SMT.SAJITHA.S.DHARAN

RESPONDENT(S) :-

1. THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE
MALAPPURAM - 673 639.
2. THE CIRCLE INSPECTOR OF POLICE
TIRURANGADI CIRCLE, TIRURANGADI, MALAPPURAM - 676306.
3. THE SUB INSPECTOR OF POLICE
TENHIPALAM POLICE STATION, POST CALICUT UNIVERSITY
MALAPPURAM - 673635.
4. KRISHNAN
S/O.CHOYIUNNI, RESIDING AT PATTAYIL KEERANGAD HOUSE
CHELEMBRA, MALAPPURAM - 673634.
5. SUSHEELA
W/O.KRISHNAN, RESIDING AT PATTAYIL KEERANGAD HOUSE
CHELEMBRA, MALAPPURAM - 673634.
6. SHABIN
S/O.KRISHNAN, RESIDING AT PATTAYIL KEERANGAD HOUSE
CHELEMBRA, MALAPPURAM - 673634.

7. V.NARAYANAN
S/O.APPUKUTTAN, RESIDING AT VELLASSERY HOUSE
POST CHELEMBRA, MALAPPURAM - 673634.
8. VASANTHA
W/O.NARAYANAN, RESIDING AT VELLASSERY HOUSE
POST CHELEMBRA, MALAPPURAM - 673634.
9. RAMIL
S/O.NARAYANAN, RESIDING AT VELLASSERY HOUSE
POST CHELEMBRA, MALAPPURAM - 673634.
10. ASSAIN
S/O.MUHAMMED, RESIDING AT MARANGATT HOUSE,
POST CHELEMBRA, MALAPPURAM - 673634.

R1-R3 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R4 - R10 BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA
SMT.CHITHRA CHANDRASEKHARAN
SMT.SYAMA SIDHARTHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY OF THE LICENCE ISSUED BY THE CHELEMBRA PANCHAYAT.

EXT.P2 :- TRUE COPY OF THE SANITARY FITNESS CERTIFICATE ISSUED BY THE PRELIMINARY HEALTH CENTRE, CHELEMBRA TO THE ESTABLISHMENT OF THE PETITIONER.

EXT.P3 :- TRUE COPY OF THE CONSENT TO OPERATE GIVEN BY THE POLLUTION CONTROL BOARD.

EXT.P4 :- TRUE COPY OF THE CERTIFICATE ISSUED BY THE DEPARTMENT OF INDUSTRY.

EXT.P5 :- TRUE COPY OF THE JUDGMENT IN O.S.169/2014 OFD THE LEARNED MUNSIFF, PARAPPANANGADI.

EXT.P6 :- TRUE COPY OF THE COMPLAINT OF THE PETITIONER AND ITS ENGLISH TRANSLATION.

EXT.P7 :- TRUE COPY OF THE COMPLAINT OF THE PETITIONER TO THE 1ST RESPONDENT AND ITS ENGLISH TRANSLATION.

EXT.P8 :- TRUE COPY OF THE COMMUNICATION DATED 29.5.2015 OF THE SECRETARY OF THE GRAMA PANCHAYAT AND ITS ENGLISH TRANSLATION.

EXT.P9 :- TRUE COPY OF THE ORDER PASSED BY THE TRIBUNAL.

EXT.P10 :- TRUE COPY OF THE ORDER OF THE HONOURABLE TRIBUNAL DATED 1.9.2015.

EXT.P11 :- TRUE COPY OF THE COMMUNICATION ISSUED BY THE POLLUTION CONTROL BOARD.

EXT.P12 :- TRUE COPY OF THE COMMUNICATION ISSUED BY THE POLLUTION CONTROL BOARD.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

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

W.P.(C) No.34579 of 2015

Dated this the 21st day of December 2015

J U D G M E N T

Shaffique, J.

The petitioner has approached this Court seeking for police protection alleging that respondents 4 to 10 and their men are obstructing the petitioner from conducting an industrial unit by name, Hysun Polymers in building No.2/349C of Chelembra Panchayat, Malappuram District. According to the petitioner, respondents 4 to 10 have no right to create any such obstruction. When there was an attempt to trespass into his property, the petitioner had preferred a suit to the Munsiff's Court, Parappanangadi as O.S.No.169 of 2014 and a decree had been passed restraining the respondents from trespassing into the property belonging to the petitioner. It is submitted that still there is obstruction being created to the petitioner and his staff from entering into the property.

2. Counter affidavit has been filed by respondents 4 to 10 inter alia stating that the petitioner is not in possession of any valid permit/licence from the competent authority for functioning

-: 2 :-

the unit. The licence/permit of the petitioner had already been expired and as the matter stands now, petitioner is not in possession of any licence. It is also stated that they have not physically prevented the petitioner or his workers in any manner.

3. Reply affidavit has been filed by the petitioner inter alia stating that though the period of licence had already expired, the petitioner had submitted an application for renewal of the licence well within time, but, on account of administrative delay the licence/permit is not being renewed. It is contended that the petitioner had deemed licence/permit to carry on the functioning of the unit.

4. Learned counsel for the petitioner would further submit that there is delay on the part of the authorities to renew the licence/permit and at any rate, respondents 4 to 10 have no right to physically obstruct the petitioner from entering into the unit or from functioning the unit. At best, their right is to approach the competent authorities to redress their grievance.

5. It is clear that the petitioner had already started functioning the unit and if no restriction had been imposed either by the Panchayat or by the Pollution Control Board, the petitioner's right to function the unit cannot be physically

W.P.(C) No.34579 of 2015

-: 3 :-

obstructed by respondents 4 to 10. If there is any such obstruction, it is the duty of the police to ensure maintenance of law and order.

Accordingly, this writ petition is disposed of directing the 3rd respondent to ensure maintenance of law and order in the matter relating to functioning of the unit by the petitioner.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

Jvt/21.12.2015.