

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(C).No. 34995 of 2014 (Y)

PETITIONER(S):

- 1. SOMAN, S/O.AYYAPPAN,
PANANGOTTU CHAVARU PURAYIDAM,
CHITTAIKODU DESOM, NAVAIKULAM VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM.**
- 2. GOPI, S/O.GOPALAN,
PANANGOTTU CHAVARU PURAYIDAM,
CHITTAIKODU DESOM, NAVAIKULAM VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM.**
- 3. BABU, S/O.GOPALAN,
PANANGOTTU CHAVARU PURAYIDAM,
CHITTAIKODU DESOM, NAVAIKULAM VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM.**
- 4. NAKULAN, S/O.MADHAVAN,
PANANGOTTU CHAVARU PURAYIDAM,
CHITTAIKODU DESOM, NAVAIKULAM VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM.**
- 5. RAVI, S/O.MADHAVAN,
PANANGOTTU CHAVARU PURAYIDAM,
CHITTAIKODU DESOM, NAVAIKULAM VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM.**

BY ADV. SRI.B.KRISHNA MANI.

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
KALLAMBALAM POLICE STATION, KALLAMBALAM,
THIRUVANANTHAPURAM-695 605.**
- 2. CIRCLE INSPECTOR OF POLICE,
VARKALA, THIRUVANANTHAPURAM-695 141.**
- 3. DEPUTY SUPERINTENDENT OF POLICE,
ATTINGAL, THIRUVANANTHAPURAM-695 101.**

4. SARALA, W/O.NATARAJAN, INDU BHAVAN,
MAVINMOODU DESOM, CHEMMARUTHI VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM-695 145.
5. BEENA, D/O.SARALA, INDU BHAVAN,
MAVINMOODU DESOM, CHEMMARUTHI VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM-695 145.
- *6. SASIDHARAN, CHARUVILA,
CHEMMARUTHI VILLAGE, VARKALA TALUK,
THIRUVANANTHAPURAM-695 145. (CORRECTED)
- *7. CHINNAMMA, CHARUVILA, CHEMMARUTHI VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM-695 145. (CORRECTED)
- *8. RAJAN, S/O.CHINNAMMA, CHARUVILA,
CHEMMARUTHI VILLAGE, VARKALA TALUK,
THIRUVANANTHAPURAM-695 145. (CORRECTED)
- *9. BHASKARAN, CHARUVILA,
CHEMMARUTHI VILLAGE, VARKALA TALUK,
THIRUVANANTHAPURAM-695 145. (CORRECTED)
- *10. VASANTHA, CHARUVILA,
CHEMMARUTHI VILLAGE, VARKALA TALUK,
THIRUVANANTHAPURAM-695 145. (CORRECTED)
- * THE HOUSE NAME OF RESPONDENTS 6 TO 10 ARE CORRECTED AS
'CHAVARUVILA VEEDU' INSTEAD OF 'CHARUVILA' AS PER ORDER
DATED 22/09/2015 IN I.A. NO.2973/2015.
11. MUTHUSWAMI ACHARI MURUKAN,
PUTHENVILA VEEDU, CHENNANKOTTU VEEDU,
CHEMMARUTHI VILLAGE, VARKALA TALUK,
THIRUVANANTHAPURAM-695 145.
12. MEENAKSHI, D/O.VELU, CHAVARUKAVUVILA VEEDU,
MAVINMOODU, CHITTAIKODU DESOM, NAVAIKULAM VILLAGE,
THIRUVANANTHAPURAM DISTRICT-695 603.
13. KRISHNAN ACHARI, CHAVARUVILA VEEDU,
MAVINMOODU, CHITTAIKODU DESOM, NAVAIKULAM VILLAGE,
THIRUVANANTHAPURAM DISTRICT-695 603.

R1 TO R3 BY SR. GOVT. PLEADER SRI.P.I DAVIS.
R6 TO R9 & R12 BY ADVS. SRI.T.M.ABDUL LATHEEF,
SRI.A.MOHAMED RASHEED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1- TRUE COPY OF JUDGMENT DATED 25.07.1984 IN O.S.27/1981 BEFORE THE MUNSIFF'S COURT, VARKALA.
- P2- TRUE COPY OF THE NOTICE DATED 21.01.2003.
- P2(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P2.
- P3- TRUE COPY OF THE NOTICE DATED 21.01.2003.
- P3(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P3.
- P4- TRUE COPY OF THE NOTICE DATED 21.01.2003.
- P4(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P4.
- P5- TRUE COPY OF NOTICE DATED 21.01.2003.
- P5(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P5.
- P6- TRUE COPY OF THE ORIGINAL PETITION, O.P.NO.6934/2003 DATED 26.02.2003 BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM WITHOUT EXHIBITS.
- P7- TRUE COPY OF JUDGMENT DATED 04.10.2006 IN O.P.NO.6934/2003 BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.
- P8- TRUE COPY OF ORDER DATED 24.03.2014 IN E.A.226/02 IN E.P.5/94 IN O.S.27/1981 BEFORE THE MUNSIFF COURT.
- P9- TRUE COPY OF THE DELIVERY KAICHIT.
- P9(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P9.
- P10- TRUE COPY OF REPRESENTATION DATED 20.07.2014.
- P10(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P10.
- P11- TRUE COPY OF THE RECEIPT DATED 20.07.2014 ISSUED BY THE FIRST RESPONDENT.
- P11(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P11.
- P12- TRUE COPY OF THE RECEIPT DATED 21.07.2014 ISSUED BY THE 2ND RESPONDENT.

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P12(A)- COPY OF THE ENGLISH TRANSLATION OF EXT.P12.

**P13- TRUE COPY OF THE RECEIPT DATED 21.08.2014 ISSUED BY THE
3RD RESPONDENT.**

P13(A)- TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P13.

RESPONDENT'S EXHIBITS:-

**EXT.R12A COPY OF THE ORDER DATED 16/08/2014 IN A.S. NO.12 OF 2014
PASSED BY THE SUB COURT, ATTINGAL.**

**EXT.R12B COPY OF THE MEMORANDUM OF APPEAL DATED 27/05/2014
FILED BEFORE THE SUB COURT, ATTINGAL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.34995 of 2014

Dated this the 22nd day of September 2015

J U D G M E N T

Shaffique, J

Petitioners have approached this Court seeking police protection inter alia contending that respondents 4 to 11 are interfering with the management of a temple namely Panangottu Chavarukavu temple. It is stated that there was some dispute with reference to the right in respect of the temple property which was declared in favour of the temple as per judgment dated 25/07/1984 in O.S.No.27/81. Later, the property also was delivered after vacating the persons in possession by an order of the court which is evident from Ext.P9 report of the Amin dated 11/07/2014. Petitioner submits that an attempt has been made on behalf of the respondents for managing the affairs of the temple which was rejected by the learned Munsiff as per order dated 24/03/2014 in E.A.No.226/2002 in E.P.No.5/94 in O.S.No.27/81. Petitioners further submits that against the said order, an appeal has been preferred to, but no stay has been

granted by the appellate court.

2. Since there was obstruction by respondents 4 to 11 in the management of the affairs of the temple, petitioners submitted complaints to the police but since no action has been taken by the police in this regard, this writ petition has been filed.

3. Counter affidavit has been filed on behalf of respondents 6, 7, 8, 9 and 12, inter alia stating that the decree of the Court was only with reference to the right in respect of the property and as far as management of the temple is concerned, the petitioners cannot have any claim, as the eldest members of the family alone are eligible to manage the temple. It is stated that all the members of the family have a right of administration of the temple and therefore the petitioners by themselves cannot have a right to manage the affairs of the temple. It is also stated that petitioners have not produced any records to show that they are the eldest members of the family and having the right of administration.

4. The learned Government Pleader, on instructions, would submit that the complaint referred to in Ext.P10 does not disclose any cognizable offence for which police can interfere.

Police can interfere only if there is a law and order situation. As matters stand now, no such situation has arisen as far as the issue involved is concerned.

5. The learned counsel for the petitioners relied upon the judgment of this court in **Illyas T.A v. State of Kerala** [2014 KHC 647] to contend that when the property has already been delivered possession to the decree holder, there cannot be any trespass into the property and if there is any trespass subsequent to the delivery of the property, police is bound to interfere and restore possession to the decree holder who had already obtained possession.

6. Having heard the learned counsel on either side and having perused the records, the question to be considered is whether police should be directed to interfere in the matter relating to the management of the temple. It is not in dispute that as per the order dated 24/03/2014 in E.A.No.226/2002 in E.P.No.5/94 in O.S.No.27/81, claim of the respondents for management of the temple has been rejected by the Munsiff Court. It is true that an appeal is also pending against the aforesaid order passed by the Munsiff Court. But the fact remains

that the respondents, who have filed E.A.No.226/2002, cannot seek right of management unless the appellate court passes an order in their favour. The facts being so, if the temple is being managed by the petitioners, if there is any law and order situation created by the respondents whose appeal is already pending before the appellate court, we are of the view that the police is bound to interfere in the matter and maintain law and order situation. This order will be subject to any further orders to be passed by the appellate court in the pending appeal.

With the above observation, this writ petition is closed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr/22/09/15

