

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 35203 of 2014 (A)

PETITIONERS :

1. BABY, S/O.DANIEL AGED 51 YEARS
RESIDING AT B.J.BHAVAN, CHATHANOR P.O
KOLLAM TALUK, KOLLAM DISTRICT.
2. SHEEJA JOY, W/O.BABY AGED 38 YEARS
RESIDING AT B.J.BHAVAN, CHATHANOR P.O
KOLLAM TALUK, KOLLAM DISTRICT.

BY ADVS.SRI.P.M.ZIRAJ
SRI.A.M.ABDULLA
SRI.O.M.SAJAYAN
SRI.K.S.DHANESH KUMAR
SRI.K.S.SREENATH
SMT. RESHMA P JOSEPH
SRI. SUBI K
SRI.P.MOHAMED SABAH

RESPONDENTS :

1. MOHANAN, S/O.ANANDAN, AGED 52 YEARS
SUNIL BHAVAN, ULIANADU CHERRY, CHIRAKKARA VILLAGE-691 578.
2. THAMPI, S/O.SEKHARAN, AGED 51 YEARS
CHARUVILA VEEDU, ULIANADU CHERRY, CHIRAKKAL VILLAGE-691 578.
3. LAKSHMI, W/O.BALAKRISHNAN, AGED 54 YEARS
AMBIKA SADANAM, ULIANADU CHERRY, CHIRAKKARA VILLAGE-691 578.
4. OMANA, W/O.VELAYUDHAN, AGED 39 YEARS
CHARUVILA VEEDU, ULIANADU CHERRY, CHIRAKKARA VILLAGE-691 578.
5. SURENDRAN, S/O.SADASIVAN, AGED 59 YEARS
SAJITH BHAVAN, ULIANADU CHERRY, CHIRAKKARA VILLAGE-691 578.
6. THANKACHI, W/O.BABU, AGED 47 YEARS
CHARUVILA VEEDU, ULIANADU CHERRY, CHIRAKKARA VILLAGE-691 578.

7. ABHILASH, S/O.GOPI, AGED 26 YEARS
CHARUVILA VEEDU, ULIYANADU CHERRY, CHIRAKKARA VILLAGE-691 578.

8. THE INSPECTOR OF POLICE
CHATHANNUR POLICE STATION, KOLLAM DISTRICT-691 013

9. THE SUPERINTENDENT OF POLICE
KOLLAM DISTRICT - 691 001.

R3 BY ADV. SRI.R.RAJESH(PULLIKADA)
R8 & R9 BY SR.GOVERNMENT PLEADER, SRI. C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1 - TRUE COPY OF THE TAX RECEIPT DATED 29-4-2014 ISSUED BY THE
VILLAGE OFFICER CHIRAKKARA VILLAGE.

EXT.P1(A) - TRUE ENGLISH TRANSLATION OF EXHIBIT P1 TAX RECEIPT
DATED 29-4-2014.

EXT.P2 - TRUE COPY OF THE POSSESSION CERTIFICATE DATED 23-4-2014 ISSUED
BY THE VILLAGE OFFICER CHIRAKKARA VILLAGE.

EXT.P2(A) - TRUE ENGLISH TRANSLATION OF EXHIBIT P2 POSSESSION CERTIFICATE
DATED 23-4-2014.

EXT.P3 - TRUE COPY OF THE BUILDING PERMIT FROM CHIRAKKARA GRAMA
PANCHAYATH FOR CONSTRUCTION OF RESIDENTIAL HOUSE
DATED 13-05-2014 TO THE PETITIONERS.

EXT.P4 - TRUE COPY OF THE JUDGMENT DATED 20-3-2014 IN OS NO.56/2012 ON
THE FILE OF MUNSIFF MAGISTRATE COURT, SOUTH PARAVOOR.

EXT.P5 - TRUE COPY OF THE ORDER DATED 6-11-2014 IN IA NO.457/14 IN OS
NO.118/2014 ON THE FILE OF THE MUNSIFF MAGISTRATE COURT,
SOUTH PARAVUR.

EXT.P6 - TRUE PHOTOGRAPH OF THE DAMAGES CAUSED TO THE RESIDENTIAL
HOUSE OF THE PETITIONERS.

EXT.P7 - TRUE COPY OF THE FIRST INFORMATION REPORT DATED 21-11-2014
NO.2141 OF CHATHANNUR POLICE STATION.

EXT.P7(A) - TRUE ENGLISH TRANSLATION OF EXHIBIT P7 FIRST INFORMATION
REPORT DATED 21-11-2014 NO.2141 OF CHATHANNUR POLICE
STATION.

EXT.P8 - TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER
BEFORE THE NINTH RESPONDENT WITH COPY TO THE EIGHT RESPONDENT
DATED 15-12-2014.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No. 35203 OF 2014

Dated this the 20th day of February, 2015

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking police protection. Admittedly several suits are pending between the parties and interim order has been passed by Munsiff Magistrate of South Paravur in O.S. No. 118 of 2014 by which there is a direction permitting the petitioners to continue the construction work of plaint A schedule without obstruction.

2. The submission of the petitioner is that despite this direction, private respondents with their henchmen have created law and order situation and are not permitting the petitioner to continue with the construction. Though complaint has been given to the police, no action has been taken in the matter.

3. The 3rd respondent has filed a counter affidavit inter alia stating that there is a dispute between the parties

regarding boundary. It is submitted by learned counsel for the respondents that the dispute is in connection with the right of pathway. Even according to them, the width of pathway is only 2½ feet. But the question is where the pathway lies. Learned Government Pleader also submits that dispute between the parties relates to location of the pathway. Apparently all such issues are to be considered and settled by the civil court. As far as the petitioner is concerned, there is physical obstruction in the construction of building and if party respondents have a case that the building is constructed in violation of the order of Munsiff Court, their remedy is to approach the Civil Court and they cannot take law into their hands and physically prevent the petitioners from carrying on any construction activity.

Under such circumstances we direct the 9th respondent to maintain law and order in the area without interfering in the civil dispute between the parties. In so far as the dispute regarding pathway, it shall be open for the

WP(C) No. 35203 of 2014

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petitioner as well as private respondents to approach the civil court and obtain appropriate orders.

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

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**

ttb/20/02