

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**

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937Q

WP(C).No. 35773 of 2015 (V)

PETITIONER(S):

- 1. N.KRISHNA ANAND, AGED 49 YEARS,
S/O. NARAYANAN, RESIDING AT 407/1999,
1ST FLOOR, GOPAL RESIDENCY,
THOTTEKKATTU ROAD, ERNAKULAM,
COCHIN - 682 011.**
- 2. M/S. ASSET HOMES PVT LTD,G-129(28/34-A)
PANAMPILLY NAGAR, ERNAKULAM, COCHIN - 682036,
REPRESENTED BY ITS MANAGING DIRECTOR,
SUNIL KUMAR, S/O. VASUDEVAN PILLAI, AGED 45 YEARS.**

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
HOME DEPARTMENT, TRIVANDRUM - 695 001.**
- 2. COMMISSIONER OF POLICE, ERNAKULAM,
REVENUE TOWER, PARK AVENUE, COCHIN - 682 011.**
- 3. THE ASSISTANT COMMISSIOENR OF POLICE,
THRIKKAKKARA, COCHIN - 682 012.**
- 4. SUB INSPECTOR OF POLICE,
KALAMASSERY POLICE STATION, KALAMASSERY,
ERNAKULAM DISTRICT, PINCODE - 683104.**
- 5. KALAMASSERY MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, KALAMASSERY,
ERNAKULAM, PINCODE - 683104.**
- 6. ANUS, S/O.NOT KNOWN TO THE PETITIONER,
NEERUNGAL HOUSE, VADAKAPURAM NIGAR,
TOG PASS ROAD, KALAMASSERY P.O
ERNAKULAM, COCHIN PIN CODE - 683104.**

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7. NISSAMUDEEN, S/O. NOT KNOWN TO THE PETITIONER,
NEERUANGAL HOUSE, TOG PASS ROAD,
VADAKKEPURAM NAGAR, KALAMASSERY,
ERNAKULAM, COCHIN, PINCODE - 683104.
8. ALI, S/O. NOT KNOWN TO THE PETITIONER,
NEERUNGAL HOUSE, TOG PASS ROAD,
VADAKKEPURAM NAGAR, KALAMASSERY,
ERNAKULAM, COCHIN, PINCODE - 683104.
9. ALIYAR, S/O. NOT KNOWN TO THE PETITIONER,
NEERUNGAL HOUSE, TOG PASS ROAD,
VADAKKEPURAM NAGAR, KALAMASSERY,
ERNAKULAM, COCHIN, PINCODE - 683104.
10. AZEEZ, S/O. NOT KNOWN TO THE PETITIONER,
NEERUNGAL HOUSE, TOG PASS ROAD,
VADAKKEPURAM NAGAR, KALAMASSERY,
ERNAKULAM, COCHIN, PINCODE - 683104.
11. ABDUL SHERIFF, S/O. NOT KNOWN TO THE
PETITIONER, NEERUNGAL HOUSE,
TOG PASS ROAD, VADAKKEPURAM NAGAR,
KALAMASSERY, ERNAKULAM,
COCHIN, PINCODE - 683104.
12. AHAMMU, S/O. NOT KNOWN TO THE PETITIONER,
NEERUNGAL HOUSE, TOG PASS ROAD,
VADAKKEPURAM NAGAR, KALAMASSERY,
ERNAKULAM, COCHIN, PINCODE - 683104.
13. KOCHUMARAKKAR,
S/O. NOT KNOWN TO THE PETITIONER,
PALAKKAL HOUSE, TOG PASS ROAD,
VADAKKEPURAM NAGAR, KALAMASSERY,
ERNAKULAM, COCHIN, PINCODE - 683104.

R1 TO R4 BY STATE ATTORNEY SRI.P.VIJAYARAHAVAN
R5 BY SRI.M.K.ABOOBACKER, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: THE TRUE COPY OF THE ORDER NO. TP 4780/2014 DATED 17-06-2014
ISSUED BY THE 5TH RESPONDENT MUNICIPALITY TO THE
1ST PETITIONER ALONG WITH ENGLISH TRANSLATION.**
- EXT. P2: THE TRUE COPY OF THE APPROVED PLAN SHOWING THE LIE AND
NATURE OF THE DRAINAGE UNDER CONSTRUCTION.**
- EXT.P3: THE TRUE COPY OF THE JUDGMENT DATED 10-03-2015 OF THIS
HONOURABLE COURT IN WPC NO 6688/2015-(1).**
- EXT.P4: THE TRUE COPY OF THE REPRESENTATION DATED 23-11-2015
SUBMITTED BY THE PETITIONER BEFORE THE RESPONDTS 2-5.**
- EXTP-5: THE TRUE COPY OF THE RECEIPT DATED 23-11-2015 ISSUED FROM
THE OFFICE OF KALAMASSERY POLICE STATION.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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

W.P.(C) No. 35773 OF 2015

Dated this the 30th day of November, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard learned counsel for the petitioner, learned Standing Counsel for the Municipality and learned State Attorney. No notice is being issued to respondent Nos. 6 to 13 in view of the order which is being passed.

2. The petitioner has come up with the writ petition seeking a direction to respondent Nos.2 to 4 to provide adequate and effective protection to the petitioner for carrying out the construction of drainage and compound wall in the petitioner's property strictly as per Exts.P1 and P2 permits issued by the Municipality without any hindrance from respondent Nos. 6 to 13. Petitioner's case is that the private respondents are obstructing the construction on the apprehension that he may construct the compound wall on the covering slab of the drainage.

3. Learned State Attorney was allowed time to obtain instructions and after obtaining instructions he

submitted that parties have been called to the police station on 26.11.2015 and the private respondents have stated that they will not obstruct the construction, provided, the construction of compound wall is carried out under the supervision of some officials of the Municipality. Learned Standing Counsel for the Municipality also submits that the Municipal authorities shall supervise the construction of the compound wall.

4. In view of the aforesaid, in the event the construction is conducted under the supervision of Municipal authorities, the 4th respondent shall ensure that no obstruction is created in the matter of construction of such compound wall.

The Writ Petition is disposed of as above.

**Ashok Bhushan,
Chief Justice.**

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