

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

FRIDAY, THE 23RD DAY OF FEBRUARY 2024 / 4TH PHALGUNA, 1945

WP(C) NO. 2324 OF 2024

PETITIONERS:

- 1 MADHAVAN.T.N., AGED 88 YEARS, S/O.NAVUNNI,
RESIDING AT HOUSE NO.8/215, THANIKKAL HOUSE,
KADUKKAMKUNNAM, MALAMPUZHA, PALAKKAD DISTRICT,
PIN - 678651
- 2 VIJAYAGOPALAN.T.R, AGED 61 YEARS, S/O.RAMAKRISHNAN,
RESIDING AT HOUSE NO.8/213, THANIKKAL HOUSE,
KADUKKAMKUNNAM, MALAMPUZHA, PALAKKAD DISTRICT,
PIN - 678651
- 3 ARAVINDAKSHAN.T.R., AGED 55 YEARS, S/O.RAMAKRISHNAN,
RESIDING AT HOUSE NO.8/355A, THANIKKAL HOUSE,
KADUKKAMKUNNAM, MALAMPUZHA, PALAKKAD DISTRICT,
PIN - 678651
- 4 RAJALAKSHMI.T.R., AGED 53 YEARS, D/O.RAMAKRISHNAN,
RESIDING AT HOUSE NO.8/355A, THANIKKAL HOUSE,
KADUKKAMKUNNAM, MALAMPUZHA, PALAKKAD DISTRICT,
PIN - 678651

BY ADVS.
T.K.SANDEEP
SWETHA R.

RESPONDENTS:

- 1 SOUTHERN RAILWAY, THE DIVISIONAL RAILWAY MANAGER,
DIVISIONAL RAILWAY MANAGERS OFFICE WORKS BRANCH,
SOUTHERN RAILWAY, PALAKKAD, PIN - 678002
- 2 KERALA PUBLIC WORKS DEPARTMENT
REPRESENTED BY ITS SECRETARY, PUBLIC OFFICE COMPLEX,
MUSEUM P.O, THIRUVANANTHAPURAM, PIN - 695003

BY ADVS
SRI.V.GIRISHKUMAR, CGC - FOR R1
SRI.P.S.APPU - GP - FOR R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners allege that, on account of certain barricades that have been installed by the Southern Railway - so as to incapacitate access to a live railway line - entry to their houses have been fully obstructed.

2. Sri.T.K.Sandeep – learned counsel for the petitioners, explained that, though his clients have no intention, nor they require permission, to cross the railway line, since the barricades have been placed several meters from it towards the road, the entry to his clients' residences has been obstructed. He submitted that, they have, therefore, preferred Ext.P4 representation before the 1st respondent – Southern Railway, seeking that the barricades be shifted nearer to the railway line, so that they can enter their houses without any impediment. He thus prayed that Ext.P4 be directed to be taken up and disposed of by the competent Authority without any avoidable delay.

3. Sri.V.Girish Kumar – learned Central Government Counsel, in response, submitted that, if the petitioners only require Ext.P4

representation to be taken up and disposed of in terms of law, there does not appear to be any legal impediment in doing so; but prayed that this Court may not make any affirmative declarations on their entitlement to any relief and leave it to the competent Authority to take a final decision as per law. He further prayed that, since there would arise questions of safety, his client may be allowed to take the most apposite decision on Ext.P4, particularly adverting to the fact that trains constantly pass through the track.

4. No doubt, this Court cannot direct the 1st respondent to act in a particular manner; but if, what the petitioners say as afore is true, then certainly, it is a matter that they must consider in terms of law and with the empathy which the petitioners deserve, however, within the parameters of law.

In the afore circumstances, I allow this Writ Petition, to the limited extent of directing the competent Authority of the 1st respondent – Southern Railway, to take up Ext.P4 representation of the petitioners and to dispose of the same, after affording them an opportunity of being heard; thus culminating in an appropriate order and necessary action thereon, as expeditiously as is possible, but not

later than two weeks from the date of receipt of a copy of this judgment.

I, however, clarify that the directions or observations in the judgment shall not be construed by anyone to mean that any permission to cross the railway line has been granted; and this shall be kept in mind by the 1st respondent with all seriousness it warrants.

RR

Sd/ -

DEVAN RAMACHANDRAN

JUDGE

APPENDIX OF WP(C) 2324/2024

PETITIONER EXHIBITS

- | | |
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| Exhibit P1 | TRUE COPY OF LOCATION SKETCH SHOWING THE
INSTALLATION OF BARRICADES AND THE ROAD
MAP |
| Exhibit P2 | TRUE COPY OF THE PHOTOGRAPHS SHOWING THE
BARRICADES |
| Exhibit P3 | TRUE COPY OF THE CERTIFICATE ISSUED TO ONE
OF THE RESIDENTS OF THE LOCALITY BY THE
DISTRICT HOSPITAL, PALAKKAD DATED
17/01/2023 |
| Exhibit P4 | TRUE COPY OF THE REPRESENTATION DATED
19.05.2023 SEND BY THE PETITIONERS ALONG
WITH OTHER RESIDENCE OF THE LOCALITY TO
THE RDM |