

Kerala High Court

Saji Mathew vs The Sub Inspector Of Police on 7 December, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 13997 of 2010(Y)

1. SAJI MATHEW, S/O. MATHEW, AGED 38 YEARS,  
... Petitioner

Vs

1. THE SUB INSPECTOR OF POLICE,  
... Respondent

2. THE SECRETARY, SPECIAL GRADE GRAMA

3. EDIMANNIKKAL VALSAMMA W/O. PAPPACHAN,

4. ETTIKKIL BABY @ PHILIP, S/O. CHANDI,

5. K.P. RADHAKRISHNAN, S/O. KUNCHIRAMAN,

For Petitioner : SRI. C. A. JOSEPH

For Respondent : SRI. P. BABU

The Hon'ble MR. Justice T. R. RAMACHANDRAN NAIR

Dated : 07/12/2010

O R D E R

T. R. Ramachandran Nair, J.

W. P. (C) No. 13997 of 2010-Y

Dated this the 7th day of December, 2010.

JUDGMENT

In this writ petition the petitioner seeks for a direction to the Sub Inspector of Police to see that the injunction order granted by the Civil Court as per Ext.P2 is obeyed by respondents 3 to 5.

2. The petitioner has filed the suit O.S. No.29/2010 before the Sub Court, Payyannur seeking for various reliefs. Ext.P2 is the copy of the order of interim injunction granted by the civil court restraining the defendants in the suit from conducting the quarrying operation by use of explosives and without proper licence. It is the case of the petitioner that in violation of the direction issued by the civil court, respondents 3 to 5 continued the illegal quarrying operation which compelled the petitioner to approach the police by filing Ext.P3 representation. It is averred in the writ petition that the police is not taking any action in the matter.

3. Heard learned counsel appearing for respondents 3 to 5 and learned counsel for the Panchayat.

4. The counter affidavit filed by respondents 3 to 5 reveals that two other civil suits, viz.. O.S. Nos. 452/2006 and 564/2009 are pending before the Munsiff's Court, Thaliparamba for the same relief. The latter one is filed by the father as well as wife of the petitioner. It is the case of the respondents that suppressing the pendency of these two civil suits, the petitioner filed the present suit. Learned counsel for the petitioner submitted that the petitioner was not aware about the pendency of the other suits.

5. The contesting respondents have filed Ext.R3(d) application to vacate the interim order of injunction. It is also their case that they are not violating the injunction order and are not using explosives. But they are extracting rock only by use of man power. Learned counsel for the Panchayat submitted that the Panchayat has not issued any licence for quarrying.

6. Evidently, there is dispute between the parties as to whether there is use of explosives or not. Apart from that, the police cannot be an arbiter in the civil disputes. If the petitioner wants assistance of the police for enforcement of the order of injunction, he could have approached the civil court by invoking the remedy under Rule 151 C.P.C. For the alleged violation of the injunction order also, the petitioner has got a remedy under Order 39 Rule 2A of the C.P.C.

7. In that view of the matter, this Court, at this stage, will not be justified in issuing a direction, especially as the order issued is only an exparte order and the contesting respondents have already filed an application to vacate the injunction order. It is made clear that the parties can approach the civil court itself for adjudication of their disputes and the writ petition is disposed of accordingly. No costs.

(T.R. Ramachandran Nair, Judge.) kav/