

Kerala High Court

Rethanakumari @ Thankamani vs Sub Inspector Of Police on 25 January, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 28937 of 2009(J)

1. RETHANAKUMARI @ THANKAMANI, AGED 42 YRS,
... Petitioner
2. RETHNAMANI @ AMMINI AMMA, D/O. SANKARA
3. THANKAPPAN PILLAI, S/O. MADHAVAN PILLAI,

Vs

1. SUB INSPECTOR OF POLICE, KALLAMBALAM
... Respondent
2. CHANDRA BABU, KANJIRAMVILA VEEDU,
3. SHYLAJA, W/O. CHANDRA BABU, KANJIRAMVILA
4. MURALEEDHARAN, SHYNI BHAVAN, THOPPIL,
5. ANIL KUMAR, PALAVILA, THOPPIL, MUNGODU. PO,
6. BIJU, .S. SADANAM, THOPPIL, MUNGODU. PO,
7. BABU, RAMYA NIVAS, THOPPIL, MUNGODU. P.O,

For Petitioner : SRI. T.M. ABDUL LATHEEF

For Respondent : SRI. S. RAJEEV

The Hon'ble MR. Justice K.M. JOSEPH
The Hon'ble MR. Justice M.L. JOSEPH FRANCIS

Dated : 25/01/2010

O R D E R
K.M. JOSEPH & M.L. JOSEPH FRANCIS JJ.,

W.P.(C). NO: 28937 OF 2009

Dated this the 25 Day of January, 2010.
th

JUDGMENT

K.M. Joseph J., The prayer in the writ petition are as follows:

(i) To call for the records relating to Exts.P-1 to P-6 and to issue a writ of mandamus commanding the first respondent to give adequate Police protection to the petitioners from being subjected to any kind of criminal action including intimidation, assault and causing injury, etc. by the Respondents 2 to 7 and their men for not accepting the demand for cutting open a road through Petitioners property and also protection tot he life of the petitioners for enjoying their property covered by Exts.P-1 to P- 4, and also to the property of the petitioners from being used for widening the pathway.

W.P.(C). No: 28937 OF 2009

(ii) Any other appropriate, writ, order or direction also may be granted to meet out justice under the circumstances of the above case.

2. Briefly put case of petitioner is as follows: The petitioners 1 and 2 are sisters and 3rd petitioner is the brother in law of the Petitioners 1 and 2. The petitioners 1 and 2 and their sister Rethnamma obtained some items of property. It is located in 3 blocks. Ext.P1 is rough sketch of the property. Exts.P2, P3 and P4 produced are tax receipts. Respondent 2 and 3 are stated to be having properties having an extent of 4 cents and 350 sq. links in which they are residing. It is the case of the petitioners that there is a pathway having a width of 2 links starting from Nellikode Thoppil Road, which passes through the eastern boundary of Gopala Pillai and thereafter it passes through the properties of petitioners 1 and 2 and ends with the property of the 3rd petitioner. Recently some local political leaders, who were set up by the respondents 2 and 3, cut a motorable road through the petitioner's property and they have also arranged some anti socials, W.P.(C). No: 28937 OF 2009 which included Respondents 4 and 7. The caveat petition filed before the Munsiff's Court, Varkala was produced as Exhibit P5.

3. The petitioner filed Ext.P6 petition before the 1st respondent for police protection. The 2nd and 3rd respondents are forcing the petitioners to give agreement agreeing to cut open the road through their property. They are not giving any heed to the said petition. It is stated that they will see that even under bloodshed they will desire the satisfaction. Due to fear of life, they are unable to go to their property. The 2nd and 7th respondents know that the petitioners are residing 3kms away from the property. They are auto rickshaw drivers and also involved in various criminal cases and vandalism.

4. A counter affidavit was filed by the 2nd respondent on behalf of respondents nos. 3, 4, 5 and 7 also. It is stated inter-alia as follows: Ext.P1 location sketch is not correct and it was drawn according to their own wish. It is stated there that he had purchased 4 < cents of property under sale deed No.1079/09/1 dated 22.9.2009. It is stated that there is a pathway leading to his W.P.(C). No: 28937 OF 2009 property in existence for more than 100 years as per revenue records. The petitioners and their henchmen attempted to close the pathway by constructing walls in the pathway and the general public filed a mass petition before the Secretary of Panchayath (Ext.R2(a)). The Panchayath Secretary had visited the property and the petitioners along with their henchmen attacked and obstructed the Secretary. Ext.R2(b) is the complaint letter issued from the Secretary to the first respondent, Sub Inspector of Police. It is further stated that after writ petition is filed, the petitioner have wrongfully restrained his children and wife and abused. They threatened that brother in law of 2nd respondent will be killed. Ext.R2(c) is the complaint submitted to the 1st respondent.

5. We heard the learned counsel for the petitioners.

6. This is a case where the petitioners have to approach appropriate civil court, if they have any grievance. They have also a right to approach the authorities to take action on their complaints.

7. Learned counsel for the respondents submits that they have W.P.(C). No: 28937 OF 2009 not threatened the petitioners. We notice that in the writ petition the prayer is to grant relief for enjoyment of the property. When these questions are already in dispute and it cannot be resolved by this court, we fail to see how the petitioner can become entitled to police protection as sought for.

The writ petition is accordingly dismissed.

K.M.JOSEPH, JUDGE M. L. JOSEPH FRANCIS, JUDGE.

dl/