

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOMAS P.JOSEPH
&
THE HONOURABLE MR. JUSTICE K.SURENDRA MOHAN

FRIDAY, THE 30TH APRIL 2010 / 10TH VAISAKHA 1932

WP(C).No. 13584 of 2010(W)

PETITIONER(S):

FR. JACOB KATHANAR, AGED 66,
PRIEST, S/O. NAMMUNARIL GHEEVARGHESE,
VELLIKULANGARA DESOM, KODASSERY VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENT(S):

1. THE STATE OF KERALA, REP. BY THE
SECRETARY TO THE GOVT. HOME DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.
2. THE SUB INSPECTOR OF POLICE,
VELLIKULANGARA POLICE STATION,
THRISSUR DISTRICT.
3. RAJAN, S/O. THOTTUPURAM SANKARAN,
VELLIKULANGARA VILLAGE-DESOM,
MUKUNDAPURAM TALUK.
4. SREELAL, S/O. THEKKETHALA RAMAN,
VELLIKULANGARA VILLAGE-DESOM,
MUKUNDAPURAM TALUK.
5. RATHEESH, S/O. AKALAPARAMBIL
THANKAPPAN, VELLIKULANGARA VILLAGE-DESOM,
MUKUNDAPURAM TALUK.

GOVERNMENT PLEADER SHRI L.G.SURESH BABU FOR R1 & R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/04/2010, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

THOMAS P. JOSEPH & K.SURENDRA MOHAN, JJ.

W.P.(C) No.13584 of 2010

Dated this the 30th day of April, 2010.

JUDGMENT

Prayer in this petition is for a direction to respondent No.2 to provide sufficient and adequate police protection to the life and property of petitioner against the (alleged) illegal acts and threats raised by respondent Nos.3 to 5 and to direct respondent No.2 to consider Ext.P3, complaint and take appropriate action based on the same. According to the petitioner, he is the owner in possession of 42 cents in survey No.395 of Kodassery Village and had entered into an agreement with respondent Nos.3 to 5 for its sale to them. It is the complaint of petitioner that respondent Nos.3 to 5 attempted to trespass into the said property and consecrate temple which has resulted in law and order problem on communal basis. It is also the case of petitioner that he has filed O.S.No.195 of 2010 in the court of learned Munsiff, Chalakkudy seeking appropriate relief against respondent Nos.3 to 5 and the application for interim injunction is pending consideration in that court but has not been taken up on account of vacation.

2. We have heard learned counsel for petitioner and learned Public Prosecutor appearing for respondent Nos.1 and 2.

3. Essentially, as the averments in the petition and the documents produced along with reveal that the dispute involved is of a civil nature and the alleged law and order problem also pertains to alleged enforcement of their right by the petitioner as well as respondent Nos.3 to 5 based on the alleged agreement for sale. Even though petitioner has instituted civil suit before the learned Munsiff, Chalakkudy and sought interim injunction against respondent Nos.3 to 5, on account of vacation for the civil court no order could be obtained. It is seen from the copy of plaint produced by the petitioner that he has sought for a mandatory injunction to direct respondent Nos.3 to 5 to remove the structures constructed in the suit property and for prohibitory injunction against trespass. It is open to the petitioner to move the vacation court (District Judge) concerned and seek appropriate relief on the application for interim injunction pending in the civil suit. This Court has in **Kochupennu Ambujakshi and others v. Veluthakunju Vasu Channar and others (AIR 1993 Kerala 62)** and **Sadananda Bai T.V. v. C.M.Ravi and others (2008 (3) ILR (Kerala) 137)** stated that in disputes involving civil nature, Police have no role. Even when there is an ex parte order of injunction such orders cannot be sought to be enforced through police. On the facts and circumstances

of the case we are not satisfied that this is a fit case where the relief sought for is to granted. Remedy of the petitioner is to seek appropriate relief in the pending suit.

In the above circumstances, Writ Petition is dismissed in limine.

**THOMAS P.JOSEPH,
Judge.**

**K.SURENDRA MOHAN,
Judge.**

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