

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE R.BASANT
&
THE HONOURABLE MR. JUSTICE K.SURENDRA MOHAN**

MONDAY, THE 31ST JANUARY 2011 / 11TH MAGHA 1932

WP(C).No. 1939 of 2011(N)

PETITIONER :

**A.SHAJAHAN, AGED 46 YEARS,
S/O.ASANARU PILLAI, RESIDING AT KANNETTIL HOUSE,
KANIYAPURAM P.O., THIRUVANANTHAPURAM,
PIN-695 301.**

BY ADV. SRI.A.B.MOHANA KUMAR

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE HOME SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.**
- 2. THE SUB INSPECTOR OF POLICE,
MANGALAPURAM POLICE STATION, KANIYAPURAM,
THIRUVANANTHAPURAM DISTRICT, PIN – 695 301.**
- 3. REHUMATH BEEVI, D/O.ISHA BEEVI,
RESIDING AT AMR MANZIL,
NEAR MUSLIM HIGH SCHOOL, KANIYAPURAM,
THIRUVANANTHAPURAM, PIN – 695 301.**

**R1 & R2 BY GOVT. PLEADER SMT. CHARISHMA
R3 BY ADV. SRI.S.JIJI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/01/2011, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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...2/-

WP(C).No. 1939 of 2011(N)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : COPY OF THE SALE DEED NO. 1711/2010 DATED 05.08.2010 OF MURUKKUMPUZHA SRO IN FAVOUR THE PETITIONER.

EXT.P2 : COPY OF TAX RECEIPT DATED 13.09.2010 WITH RESPECT TO EXT.P1 PROPERTY.

EXT.P3 : COPY OF THE RECEIPT DATED 15.01.2011 ISSUED FROM THE MANGALAPURAM POLICE STATION REGARDING THE COMPLAINT FILED BY THE PETITIONER.

RESPONDENT'S EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

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**R.BASANT &
K.SURENDRA MOHAN, JJ.**

WPC No.1939 of 2011

Dated this the 31st January, 2011

JUDGMENT

Basant, J.

The petitioner has come to this Court with this petition for issue of directions under Article 226 of the Constitution to respondents 1 and 2 to afford police protection to the petitioner for the enjoyment of his property and to abate threat to his life and person.

2. According to the petitioner, he has purchased the property under Ext.P1 sale deed. The assignors were the father-in-law and mother-in-law of the third respondent. The third respondent's husband is working abroad. According to the petitioner, after the execution of Ext.P1 document, the father-in-law and mother-in-law of the third respondent have no rights over Ext.P1 property and the third respondent cannot also claim any rights over such property. According to the petitioner, the third respondent who has no rights whatsoever is attempting to cause obstruction to the enjoyment of the property sold to him under Ext.P1.

3. This petition was admitted and notice was ordered to the respondents. The learned Government Pleader appears for respondents 1 and 2. The learned counsel for the third respondent submits that this petition for police protection is without any bonafides. The third respondent is residing along with her two children - an elder boy, now a student of the 10th standard and a younger girl, now a student of the 8th standard. There are disputes between the third respondent and her husband. He is not paying maintenance even to the third respondent and children. The third respondent and children were residing in a house in the property belonging to her in-laws. It is her case that she has made substantial improvements to the house by spending her own money which she had brought from her parental home. To defeat the rights of the third respondent, the father-in-law and mother-in-law appear to have entered into clandestine deals with the petitioner and another. The petitioner is the nephew of the father-in-law of the petitioner. He is one of the assignees. The other assignee is the brother of the mother-in-law of the third respondent. There is absolutely no bonafides in the alleged transaction between the parents-in-law of the third respondent on the

one hand and the petitioner and the other assignee on the other. Such documents are executed only to defeat the rights of the third respondent and her children. The husband of the third respondent is really manuring things to frustrate the claims of the third respondent. No orders for police protection may be granted. If the petitioner or the other assignee have any rights over the property, they may be directed to go to the civil court and seek appropriate orders. The third respondent shall then be in a position to raise all her contentions before the civil court. The petitioner may not be permitted to steal a march over the third respondent by securing an order for police protection. The jurisdiction to decide such complicated question may not be left to the police, submits the learned counsel for the third respondent.

4. The learned Government Pleader submits that the police have received complaints regarding the dispute between the third respondent on one hand and the assignees of her father-in-law and mother-in-law on the other. The police are satisfied that the dispute is to be resolved by the parties by approaching competent forum under law. The police cannot resolve such dispute. The

police do not intend to take any sides. If there be any threat to the life and person of either the petitioner or the third respondent, necessary deterrent action shall be taken by the police. In the perception of the police, there is no threat to the life and person of either the petitioner or the third respondent. In these circumstances, the learned Government Pleader prays that this petition may now be dismissed with appropriate observations.

5. We are satisfied that the submissions of the learned Government Pleader can be accepted. We are not persuaded to issue any specific directions for police protection to resolve the disputes between the petitioner and the third respondent about the property claimed by the petitioner under Ext.P1. We must relegate the petitioner to the civil court to seek appropriate directions/orders.

6. In the result,

- a) This petition is dismissed.
- b) We direct the parties to get their disputes about the property involved in Ext.P1 assignment deed settled in accordance with law by approaching competent courts.
- c) We record the undertaking of the learned

Government Pleader that if there be any threat or life to the person of either the petitioner or the third respondent, necessary action shall be taken by the police to deal with the situation.

**R.BASANT
JUDGE**

**K.SURENDRA MOHAN
JUDGE**

CSS/