

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 30TH DAY OF JUNE 2021 / 9TH ASHADHA, 1943

WP(C) NO. 32022 OF 2019

PETITIONER/S:

G.K.V ASSOCIATES
DOOR NO.5802,VALLAMATTOM ESTATE, P.O.JUNCTION, MUVATTUPUZHA,
REPRESENTED BY ITS MANAGING PARTNER

BY ADV P.BINNY JOSEPH

RESPONDENT/S:

1 STATE OF KERALA
REP.BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT, TRIVANDRUM-685 001

2 ASSISTANT COMMISSIONER OF POLICE,
KOCHI CITY, OFFICE OF ASST.COMMISSIONER, ERNAKULAM SDPO-682 018

3 CIRCLE INSPECTOR OF POLICE,
ERNAKULAM CENTRAL POLICE, KOCHI CITY-682 018

4 BASKARAN
ERNAKULAM JILLA KETTIDA NIRMAN THOZHILALI UNION, CITU, AREA
COMMITTEE OFFICE, CANNONSHED ROAD, KOCHI-682 011

5 K.P.HARIDAS,
PRESIDENT,ERNAKULAM DISTRICT CONSTRUCTION WORK UNION, LABOR
PART, KALABHAVAN ROAD, KOCHI-682 018

BY ADVS.
SRI.N.SATHEESH
SRI.C.S.AJITH PRAKASH
SRI.K.JANARDHANA SHENOY
SRI.T.K.DEVARAJAN
SMT.T.N.SREEKALA
SRI.PAUL C THOMAS
SRI.FRANKLIN ARACKAL
SRI.M.B.SOORI
SHRI.BABU M.
SRI.N.B.SUNIL NATH, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30.06.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

W.P.(C.) No.32022 of 2019

Dated this the 30th day of June, 2021

JUDGMENT

The above writ petition is filed with the following prayers :

i. Issue a writ of Mandamus compelling the respondents 1 to 3 to afford adequate protection to the petitioner and his employees for undertaking, carrying out and completing the work covered by Ext.P1.

ii. Issue such other order or direction as this Honourable Court deems fit considering the facts and circumstances of the case.

iii. Direct the respondent to pay the cost of the proceedings."

2. The petitioner had undertaken the work of construction of Men's Hostel of Maharajas College as per Ext.P1. The grievance of the petitioner is that the 4th and 5th respondents are obstructing the construction work. When this writ petition came up for consideration on 26.11.2019, this Court passed an interim order in favour of the petitioner. The

order dated 26.11.2019 is extracted hereunder :

"Admit.

Government Pleader takes notice for respondents 1 to 3. Issue notice by special messenger to respondents 4 and 5. There will be an interim order as prayed for.

H/O"

3. Heard Adv.P.Binny Joseph, who is appearing for the petitioner, Government Pleader and the counsel for the contesting respondents.

4. The counsel for the petitioner submitted that, even now, there is obstruction from the contesting respondents and the work is not completely over. The counsel submitted that the interim order may be retained and the writ petition may be disposed. The contesting respondents vehemently argued that there is an agreement between the petitioner and the employees of the contesting respondents. The petitioner agreed in the agreement that the members of the contesting respondents will also be allowed to work. The counsel for the contesting respondents submitted that there is absolutely no obstruction from the side of the contesting respondents. The counsel submitted that their grievance is that the members of the 4th and 5th respondents are denied work. The Government Pleader

submitted that now, there is no law and order issue and if there is any law and order issue, the Police will do the needful.

5. In the light of the above submissions, I think this writ petition can be disposed, retaining the interim order and allowing the petitioner to approach the Station House Officer concerned, if there is any law and order problem. The contentions of respondent Nos. 4 and 5 are left open. Therefore, this writ petition is disposed, retaining the interim order in the following manner :

1) If there is any law and order issue, the petitioner is free to approach the 3rd respondent.

2) If such a representation is received, the 3rd respondent will do the needful, in the light of the interim order passed by this Court.

3) All other contentions of the respondent Nos. 4 and 5 are left open.

sd/-
P.V.KUNHIKRISHNAN
JUDGE

SKS

APPENDIX OF WP(C) 32022/2019

PETITIONER ANNEXURE

EXHIBIT P1

THE TRUE COPY OF THE WORK ALLOTMENT ISSUED TO THE PETITIONER BY THE SUPERINTENDING ENGINEER PWD BUILDING CENTRAL CIRCLE, TRISSUR

EXHIBIT P2

THE TRUE COPY OF THE LETTER DATED 22.6.2019 ISSUED FROM THE OFFICE OF THE 4TH RESPONDENT

EXHIBIT P3

THE TRUE COPY OF THE LETTERS ISSUED FROM THE OFFICE OF THE 4TH RESPONDENT 1/8/2019

EXHIBIT P4

THE TRUE COPY OF THE TWO LETTERS ISSUED TO THE OFFICE OF THE 4TH RESPONDENT ON 12.11.2019

EXHIBIT P4

THE TRUE COPY OF THE TWO LETTERS ISSUED FROM THE OFFICE OF THE 4TH RESPONDENT ON 12.11.2019

EXHIBIT P5

THE TRUE COPY OF THE LETTER ISSUED FROM THE OFFICE OF THE 5TH RESPONDENT

EXHIBIT P6

THE TRUE COPY OF THE LETTER DATED 16.7.2019 ISSUED BY THE 5TH RESPONDENT

EXHIBIT P7

THE TRUE COPY OF THE LETTER DATED 17.7.2019 ISSUED FROM THE OFFICE OF 5TH RESPONDENT

EXHIBIT P8

THE TRUE COPY OF THE LETTER DATED 5/10/2019 ISSUED FROM THE OFFICE OF THE 5TH RESPONDENT

EXHIBIT P9

THE TRUE COPY OF THE LETTER DATED 14/11/2019 ISSUED FROM THE OFFICE OF 5TH RESPONDENT

EXHIBIT P10

THE TRUE COPY OF THE PETITIONER BEFORE THE 3RD RESPONDENT

EXHIBIT P11

THE TRUE COPY OF THE RECEIPT ISSUED BY THE 3RD RESPONDENT TO EXT P10

EXHIBIT P12

THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT

EXHIBIT P13

THE TRUE COPY OF THE RECEIPT EVIDENCING SUBMISSION OF EXT P12

EXHIBIT P14

THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE CITY POLICE COMMISSIONER

EXHIBIT R5 A

A TRUE COPY OF THE ONE SUCH MEMORANDUM OF SETTLEMENT WITH THE VARIOUS TRADE UNIONS DATED 1.11.2018.

EXHIBIT R4 (A)

THE TRUE COPY OF THE MEMORANDUM OF SETTLEMENT FOR THE PERIOD 2018-2020.

EXHIBIT R4 (B)

THE TRUE COPY OF THE AGREEMENT DATED 20-11-2019 BETWEEN THE CONTRACTOR K.X.JOHN AND THE REPRESENTATIVES OF THE 4TH AND 5TH RESPONDENT UNIONS.