

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

WEDNESDAY, THE 16<sup>TH</sup> DAY OF NOVEMBER 2022 / 25TH KARTHIKA, 1944

WP(C) NO. 33721 OF 2022

**PETITIONER:**

LATHEESH NAMPOOTHIRI

AGED 38 YEARS

S/O LATE MADHUSOODHANAN NAMPOOTHIRI, CHERUVELIL ILLAM,  
PANDANADU WEST, PANDANADU VILLAGE, CHENGANNUR,  
ALAPPUZHA DISTRICT, PIN 689506

BY ADV K.N.RADHAKRISHNAN(THIRUVALLA)

**RESPONDENTS:**

- 1 STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY, HOME DEPARTMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695 001
- 2 DISTRICT POLICE CHIEF,  
OFFICE OF DISTRICT POLICE CHIEF, ALAPPUZHA P.O.,  
ALAPPUZHA. PIN-688001 .
- 3 DEPUTY SUPERINTENDENT OF POLICE  
CHENGANNUR, CHENGANNUR P.O.,  
ALAPPUZHA DISTRICT. PIN- 689121
- 4 STATION HOUSE OFFICER,  
CHENGANNUR POLICE STATION, CHENGANNUR,  
ALAPPUZHA DISTRICT. 689121
- 5 BALAJI S.KURUP,  
SUB INSPECTOR, CHENGANNUR POLICE STATION, CHENGANNUR,  
ALAPPUZHA DISTRICT. 689121
- 6 VIBHUSHKUMAR,  
AGED 52 YEARS, S/O. GOPALAKRISHNA PILLAI,  
THAKADITYIL HOUSE, PANDANADU WEST, CHENGANNUR,  
ALAPPUZHA, PIN-689506.  
BY ADVS.  
JACOB P.ALEX  
JOSEPH P.ALEX  
MANU SANKAR P.  
AMAL AMIR ALI  
T.K.SHAJAHAN-SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
16.11.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

**Dated this the 16<sup>th</sup> day of November, 2022**

This writ petition is filed seeking the following prayers:

*“(i) To issue a writ of mandamus or any other appropriate writ or order or direction commanding the respondents four and five not to interfere with disputes civil in nature in between the sixth respondent and the petitioner as evident from Exhibit P1 and harass the petitioners at the instance of sixth respondent in any manner in the interests of justice.*

*(ii) Declare that the 5<sup>th</sup> respondent has no right to interfere with the repairing of septic tank being done by the petitioner at his property, which does not amount to any cognizable offence.*

*(iii) Direct the second respondent to ensure that Exhibit P3 circular and various judgments regarding role of police in disputes in civil nature, of this Hon’ble Court are being complied with and take action against the fifth respondent, in accordance with law.”*

2. Heard the learned counsel for the petitioner, the learned Government Pleader as well as the learned counsel appearing for the 6<sup>th</sup> respondent.

3. It is submitted by the learned counsel for the petitioner that there are civil suits pending between the petitioner as well as the 6<sup>th</sup> respondent and that the police are unnecessarily interfering in the civil dispute. It is contended that on 15.10.2022, the petitioner started repair work of a septic tank within his property and that the 5<sup>th</sup> respondent

came to the spot and misbehaved with the petitioner and his aged mother and interfered in the civil dispute and attempted to settle the dispute outside court.

4. The 6<sup>th</sup> respondent has placed a detailed counter affidavit on record. It is contended that there is a disputed pathway in the vicinity of the properties in question and that Ext.R6(d) common order has been passed in IA filed in the suit filed by the petitioner as well as the suit filed by the 6<sup>th</sup> respondent, which is presently pending in OP(C) No.2971/2019 before this Court. It is submitted that even in Ext.R6(f) order passed in the OP(C), it was clarified that the pendency of the original petition does not interdict the court below for proceeding with the suit and that there is no interim order passed in the OP(C). It is submitted that in spite of the orders of injunction, the petitioner had taken steps to encroach into the pathway, which is the subject matter of the dispute between the parties and effect constructions therein and that the petitioner had requested police help only for violation of the orders of the competent civil court. It is therefore contended that there is no harassment or interference by the police into any civil dispute and that

the attempt was only to see that the interim orders of the competent civil courts are complied with.

5. The learned Government Pleader submits, on instructions, that on 15.10.2022, the police received a call stating that there is a scuffle going on in the property and that the police had intervened only to see that law and order is maintained and there is no harassment or interference in the civil dispute.

Having considered the contentions advanced, I am of the opinion that the issue whether there is violation of the orders passed by the competent civil courts is to be decided in the prosecution petitions before the civil court. However, I am of the opinion that the interference of the police to see that law and order is maintained cannot be termed as harassment. The prayers as sought for in the writ petition, therefore, cannot be allowed. However, all contentions of the parties are left open to be decided in the pending proceedings.

Sd/-

**ANU SIVARAMAN**

NP

**JUDGE**

**APPENDIX OF WP(C) 33721/2022**

**PETITIONER'S EXHIBITS**

- Exhibit P1** THE COPY OF PRINT IN O.S.NO.359/2013 OF  
MUNSIFFS COURT, CHENGANNUR DATED NIL
- Exhibit P2** THE COPY OF COMPLAINT SENT TO THE POLICE  
CHIEF ALONG WITH POSTAL RECEIPT DATED  
15.10.2022
- Exhibit P3** THE COPY OF CIRCULAR NO.04/2012 ISSUED BY THE  
STATES POLICE CHIEF.

**RESPONDENTS' EXHIBITS**

- Exhibit R6(a)** TRUE COPY OF THE ADVOCATE COMMISSION REPORT  
PREPARED ON 23.12.2013 IN OS NO.359/2013
- Exhibit R6(b)** TRUE COPY OF THE ADVOCATE COMMISSION REPORT  
PREPARED ON 03.06.2014 IN OS NO.359/2013
- Exhibit R6(c)** TRUE COPY OF THE ADVOCATE COMMISSION REPORT  
PREPARED ON 22.01.2014 IN OS NO.2/14
- Exhibit R6(d)** TRUE COPY OF THE COMMON ORDER DATED  
25.07.2019 IN IA NO.2090/13 IN OS NO.359/13  
AND CONNECTED CASES OF MUNSIFF'S COURT
- Exhibit R6(e)** TRUE COPY OF THE COMMON ORDER DATED  
27.09.2019 IN CMA 5 OF 2019 AND CONNECTED  
CASES OF SUB COURT, CHENGANNUR
- Exhibit R6(f)** TRUE COPY OF THE ORDER DATED 29.07.2021 IN  
OPC NO.2971 OF 2019 OF THIS HON'BLE COURT
- Exhibit R6(g)** TRUE COPY OF THE POSTING DETAILS OF OS NO.359  
OF 2013 BEFORE MUNSIFF'S COURT, CHENGANNUR  
PRINTED FROM THE E-COURTS PORTAL
- Exhibit R6(h)** TRUE COPY OF IA NO.678 OF 2014 IN OS NO.359  
OF 2013 ON THE FILES OF MUNSIFF'S COURT,  
CHENGANNUR DATED 21.05.2014
- Exhibit R6(i)** TRUE COPY OF IA NO.680 OF 2014 IN OS NO.359  
OF 2013 ON THE FILES OF MUNSIFF'S COURT,  
CHENGANNUR DATED 21.05.2014
- Exhibit R6(j)** TRUE COPY OF THE PHOTOGRAPHS (2 NOS) OF THE  
PRESENT WORK GOING IN ITEM NO.3 PATHWAY IN OS  
NO.359 OF 2013