

(2014) 09 KL CK 0034

In the High Court Of Kerala

Case No : Con. Case(C). No. 688 of 2014 in WP(C). 437/2012

Joy Mathew

APPELLANT

Vs

Antony Thomas

RESPONDENT

Date of Decision : 03-09-2014

Acts Referred:

Citation : (2014) 09 KL CK 0034

Hon'ble Judges : Ashok Bhushan, Acting C.J.; A.M. Shaffique, J

Bench : Division Bench

Advocate : S. Krishnamoorthy, Advocate for the Appellant; Sujith Mathew Jose, Special Government Pleader, Alexander Joseph, T.P. Joseph and Rajan P. Kaliyath, Advocate for the Respondent

Judgement

Ashok Bhushan, Actg. C.J.

1. Heard learned counsel for the petitioner, learned Government Pleader and the learned counsel appearing for the party respondents.

2. This contempt application has been filed alleging violation of judgment dated 11.1.2012 in writ petition No. 437/12. This Court by the said judgment has directed that whenever a new contractor is entrusted with the work, effective and adequate police protection be extended to the petitioner, to the contractor who works under him and also to the labourers who are engaged for discharging the work in terms of the contract. The allegation in the contempt application is that on 16th June, 2014 he entered into an agreement with one Biju for cutting and removing of old trees. He submitted that he started the work on 23rd June 2013. Third respondent has trespassed into the petitioner's property and a complaint was made on 23rd June 2014 and 30th June 2014. It is submitted that no police protection was provided, which clearly means violation of the judgment of this Court. An affidavit has been filed by the first respondent wherein in paragraph 7 it has been stated as follows:

"7. Again, on 30.6.2014, Dr. Joy Mathew, the petitioner herein, preferred a

petition in the Office of the Deputy Superintendent of Police, Muvattupuzha at 4.56 pm on 30.6.2014 demanding police protection in carrying out the above work. The Deputy Superintendent of Police, Muvattupuzha endorsed the same to Kothamangalam police station on the next day with direction to provide adequate police protection to the party for carrying out the work in strict obedience to the order of this honorable court in favour of the petitioner herein. Following it, on 2.7.2014, Sri. Unnikrishnan, Sub Inspector of Police, Kothamangalam Police Station with police party reached the controversial area with a scheme to provide police protection and met with Biju, the contractor. But, Biju, the contractor was unwilling to carry out the work then. He intimated the police party on the location that he wanted to carry out the work without police protection after an amicable settlement of the disputes with the local people, otherwise his credibility as a contractor would be questioned and it would affect his future works also. He also intimated to the police party that "he will submit a request for police protection in case it is needed." The copy of the statement of Biju, the contractor is already produced by the second respondent herein."

3. Learned counsel for the petitioner submitted that the contractor Biju never made such a statement as can be seen from the above paragraph.

4. We have heard learned counsel for the parties and perused the records.

It is not disputed that on receiving the complaint submitted by the petitioner actions were taken and the police authorities visited the spot on 30th June 2014. The name of the Sub Inspector, who went along with the police party, is also mentioned in paragraph 7. There is no willful violation of the judgment of the Court on the part of the police authorities. The present case is not a case of any contempt, on which the proceedings can be proceeded with for violation of the judgment. There is no material to indicate that any complaint was made immediately after 30th June 2014 alleging not giving protection by the contractor or by the petitioner demanding police protection. Had there been any twist in the statement which is now sought to be submitted on behalf of Biju there ought to have immediate reaction and complaint which is missing in the present case clearly indicate that the police authority took immediate action for compliance and there is no contempt.

With this observation, the contempt application is rejected.