
(2018) 01 KL CK 0094
In the High Court Of Kerala
Case No : 726 of 2018

K.K.KURUVILA

APPELLANT

Vs

STATE OF KERALA & ORS.

RESPONDENT

Date of Decision : 09-01-2018

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Power of High Courts to Issue certain writs

Citation : (2018) 01 KL CK 0094

Hon'ble Judges : K.Vinod Chandran, Ashok Menon

Bench : Division Bench

Advocate : MATHEW SKARIA, C.M.TOMY, JOY JOSEPH, K.J.JOSEMON, TOMY PAUL, P.P.THAJUDDIN

Final Decision : Dismissed

Judgement

1. The petitioner was before this Court claiming adequate police protection to the life and property of the petitioner and his wife and to restrain one

Jabeen Shaikh @ Jubina Shaikh from entering into the house and property of the petitioner and his wife. The petitioner also has a prayer to

confirm that neither the above said Jubina Shaikh nor any person under her are entering into the house and property of the petitioner"" (sic). We

are surprised that prayers of the nature as extracted, have been made, which are in the nature of a declaration and consequential injunction, which

cannot be granted under Article 226 of the Constitution of India.

2. We are not inclined to grant the police protection also on the subsequent facts, which have come forth on the appearance of the said Jabeen

Shaikh, who was impleaded as the additional 6th respondent. At the time of admission on 09-01-2018, we enquired with the petitioner as to why

the woman, who is alleged to have attempted to trespass into his property, was not impleaded.

3. When the matter was then posted to 11-01-2018, we noticed a lady in Court, who turned out to be the person against whom allegations have

been raised in the Writ Petition. We then appointed a Counsel from the Kerala High Court Legal Services Committee to assist the said person. A

detailed counteraffidavit has been placed on record, in which the additional 6th respondent asserts that she is the wife of petitioner's son. It is also

asserted that the 6th respondent along with her son is now residing in one room of the house of the petitioner as also occupying the terrace. The

6th respondent states that she has been intermittently residing in petitioner's house with her husband and son. However, now the petitioner's son

has deserted her and she, being without any means, returned to her matrimonial house. The 6th respondent has also alleged that the matrimonial

home was renovated with the money and gold she obtained from her parents, at the time of her marriage and afterwards, as the share of her

parental property.

4. The husband of the 6th respondent, who is the son of the petitioner, is stated to be involved in several crimes and absconding; by the petitioner.

The petitioner has filed a detailed reply refuting the assertions of the 6th respondent. The 6th respondent asserts that the petitioner, in collusion with

his son, is attempting to exclude herself and the minor grandchild from the matrimonial home. Going through the counter-affidavit we are not

inclined to grant any police protection to the petitioner. We do not think that the threat allegedly apprehended by the petitioner; from his daughter-

in-law is real or of any consequence. The 6th respondent and the minor child are now residing at the petitioner's house, which she claims to be her

matrimonial home. The petitioner also has admitted before this Court that he along with his wife is residing in his relative's house. The petitioner

cannot be granted any police protection so as to get evicted the 6th respondent and her son from the house, in which they are now residing. The

petitioner would have to take appropriate remedies, if so advised, and there can be no police protection granted. The Writ Petition is misconceived

and we decline to entertain it. The Writ Petition would stand dismissed.