

(2011) 05 KL CK 0032

In the High Court Of Kerala

Case No : Writ Petition (C) No. 11165 of 2011 (U)

Sali John

APPELLANT

Vs

City Police Commissioner and Others

RESPONDENT

Date of Decision : 31-05-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 05 KL CK 0032

Hon'ble Judges : R. Basant, J; K. Surendra Mohan, J

Bench : Division Bench

Advocate : K. Siju, for the Appellant; K. Subash Chandra Bose, for the Respondent

Final Decision : Dismissed

Judgement

R. Basant, J.

I.A. No. 7899 of 2011:

1. Heard. Allowed. Carry out the amendment.

W.P.(c) No. 11165 of 2011:

2. The Petitioner has come to this Court seeking issue of directions under Article 226 of the Constitution to Respondents 1 and 2 to afford protection for the Petitioner to undertake the construction of a compound wall in accordance with Ext.P2 permit issued by the Oachira Grama Panchayat against illegal obstructions that are raised and are apprehended from Respondents 3 to 7.

3. The Petitioner claims to be the owner of a parcel of land. Respondents 3 to 7 have no common boundaries with that parcel of land. The Petitioner had applied for and obtained Ext.P2 building permit to undertake the construction of the compound wall in that property. When she attempted to undertake the construction in accordance with Ext.P2, Respondents 3 to 7 are raising illegal and unjustified obstruction. It is, in these circumstances, that police protection is

sought.

4. Respondents 3 to 7 have appeared through counsel. The learned Counsel for Respondents 3 to 7 submits that under the guise of an order of police protection which the Petitioner is seeking to secure from this Court, she would, in fact, attempt to fill up a wet land around which the compound wall is sought to be constructed. Respondents 3 to 7 have no objection against the construction of the compound wall. Their objection is against the attempt to convert the wet land by filling the same. It may be ensured that the Petitioner does not misutilize the order of protection, if any, granted to her, submits the learned Counsel for Respondents 3 to 7.

5. The learned Counsel for the Petitioner categorically undertakes that Ext.P2 order permitting the Petitioner to construct a compound wall or the order of protection sought from this Court now shall not in any way be used by her to justify any attempt to fill up the land in question. Such attempt, if any, shall be made only in accordance with law and at present the Petitioner does not intend to fill up the land, submits and undertakes the learned Counsel for the Petitioner.

6. The learned Government Pleader, after taking instructions, submits that it is now evident that the Petitioner has Ext.P2 building permit issued by the Panchayat in her favour. The police shall take necessary action if there be any illegal obstruction to the construction of the compound wall in terms of Ext.P2.

7. We have considered all the relevant inputs. We are satisfied that the Petitioner is entitled to construct the compound wall strictly in accordance with Ext.P2 permit. We are further satisfied that the Petitioner is not entitled to fill up or convert the land under the guise of constructing the compound wall under Ext.P2.

8. We accept the submission of the learned Counsel for the Petitioner that the Petitioner shall not attempt to fill up the land while executing the work of construction of the compound wall under Ext.P2. We accept the submission of the learned Counsel for Respondents 3 to 7 that no objection/obstruction shall be raised against the construction of the compound wall simpliciter as permitted under Ext.P2. We accept the submission of the learned Government Pleader that protection shall be granted only for construction of the compound wall against obstruction, if any, from Respondents 3 to 7. We are satisfied, in these circumstances, that no further specific directions need be issued.

9. Recording the above submissions of the learned Counsel for the Petitioner, the learned Counsel for Respondents 3 to 7 and the learned Government Pleader, this writ petition is dismissed.