

Devadas Vs. the Director General of Police

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Court : Kerala

Decided On : Aug-20-2014

Judge : Honourable the Ag.Chief Justice Mr.Ashok Bhushan

Appellant : Devadas

Respondent : The Director General of Police

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN & THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE WEDNESDAY, THE 20TH DAY OF AUGUST 2014 29TH SRAVANA, 1936 WP(C).No. 19211 of 2014 (B)
----- PETITIONERS : ----- 1. DEVADAS S/O.DAMODARAN, POOJA EGG CENTRE, SHOP NO.29 WORLD MARKET, VENAPALAVATTOM, ANAYARA P.O. THIRUVANANTHPAURAM.

2. SURENDRAN AGED 53 YEARS S/O.KARUNAKARAN, SNIL VEGITABLE SHOP NO.24 WORLD MARKET, VENAPALAVATTOM, ANAYARA P.O. THIRUVANANTHPAURAM 3 SASANKAN AGED 62 YEARS S/O.SUKUMARAN VAIDYAR, ST TRADERS, SHOP NO.27 WORLD MARKET, VENAPALAVATTOM, ANAYARA P.O. THIRUVANANTHPAURAM BY ADV. SRI.SHAJIN S.HAMEED
RESPONDENTS : ----- 1. THE DIRECTOR GENERAL OF POLICE POLICE HEADQUARTERS, THIRUVANANTHPAURAM-695 001.

2. THE CITY POLICE COMMISSIONER THIRUVANANTHAPURAM CITY, COMMISSIONERS OFFICE VAZHUTHACAUD, THIRUVANANTHAPRUAM-695 014.

3. THE SUB INSPECTOR OF POLICE PETTAH POLICE STATION, PETTAH THIRUVANANTHAPRUAM-695 024.

4. KERALA HEAD LOAD WORKERS WELFARE BOARD REPRESENTED BY ITS CHAIRMAN, P.B.NO.2017, SRM ROAD ERNAKULAM, KOCHI-682 018. WP(C).No. 19211 of 2014 (B) 5. VIJAYAN CONVENER CITU, WORLD MARKET, ANAYARA THIRUVANANTHAPRUAM-695 029 6. RAJESH CONVENER INTUC, WORLD MARKET, ANAYARA THIRUVANANTHAPRUAM-695 029.

7. AJITH KUMAR, CONVENER, BMS, WORLD MARKET ANAYARA, THIRUVANANTHAPRUAM-695 029.

8. CHAKRAPANI, CONVENOR, HMS, WORLD MARKET ANAYARA, THIRUVANANTHAPRUAM-695 029.

9. LAKSHMANAN, CONVENOR, AITUC, WORLD MARKET ANAYARA, THIRUVANANTHAPRUAM-695 029.

10. SURESH CONVENOR, UTUC (B), WORLD MARKET ANAYARA, THIRUVANANTHAPRUAM-695 029. R1 TO R3 BY SR.GOVERNMENT PLEADER, SRI.P.I. DAVIS. R4 BY ADV. SRI.C.S. AJITH PRAKASH, SC, KHWWB R5,R6,R8 TO R10 BY ADV. SRI.GOPAKUMAR R.THALIYAL SRI.R.B.RAJESH R7 BY ADV. SRI.N. NAGARESH THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON2008-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 19211 of 2014 (B)
----- APPENDIX PETITIONERS' EXHIBITS :
----- EXT.P1 : PHOTOCOPY OF THE AGREEMENT DATED219/2011 EXECUTED BY THE AGRICULTURAL WHOLESale MARKET AUHTHORITY, WITH THE1T PETITIONER. EXT.P1(A) : PHOTOCOPY OF THE AGREEMENT DATED193/2012 EXECUTED BY THE AGRICULTURAL WHOLESale MARKET AUHTHORITY, WITH THE2D PETITIONER. EXT.P1(B) :

PHOTOCOPY OF THE AGREEMENT DATED 196/2012 EXECUTED BY THE AGRICULTURAL WHOLESALE MARKET AUTHORITY, WITH THE 3D PETITIONER. EXT.P2 : PHOTOCOPY OF THE

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DATED 184/2012 IN WPC NO.8684/2012. EXT.P3 : PHOTOCOPY OF THE

JUDGMENT

DATED 27/2012 IN WPC NO.14831/2012. EXT.P4 : PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER BEFORE THE 3^D RESPONDENT WITH ENGLISH TRANSLATION. EXT.P4(A) : PHOTOCOPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE 3^D RESPONDENT DATED 24/12/2012 WITH ENGLISH TRANSLATION. EXT.P5 : PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE 2^D PETITIONER BEFORE THE 3^D RESPONDENT WITH ENGLISH TRANSLATION. EXT.P5(A) : PHOTOCOPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE 3^D RESPONDENT DATED 24/12/2012 5/9/2012 WITH ENGLISH TRANSLATION. EXT.P6 : PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE 3^D PETITIONER BEFORE THE 3^D RESPONDENT WITH ENGLISH TRANSLATION. EXT.P6(A) : PHOTOCOPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE 3^D RESPONDENT DATED 24/12/2012 WITH ENGLISH TRANSLATION. EXT.P7 : PHOTOCOPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE 3^D RESPONDENT DATED 21/1/2014 SEND BY THE 1ST PETITIONER TO THE 3^D RESPONDENT WITH ENGLISH TRANSLATION. EXT.P7(A) : PHOTOCOPY OF THE POSTAL RECEIPT. EXT.P8 : PHOTOCOPY OF THE REPRESENTATION DATED 21/1/2014 SEND BY THE 3^D PETITIONER BEFORE THE 3^D RESPONDENT WITH ENGLISH TRANSLATION. EXT.P8(A) : PHOTOCOPY OF THE POSTAL RECEIPT. WP(C).No. 19211 of 2014 (B) ----- EXT.P9 : PHOTOCOPY OF THE REPRESENTATION DATED 21/1/2014 SEND BY THE BY THE 3^D PETITIONER TO THE 3^D RESPONDENT WITH ENGLISH TRANSLATION. EXT.P9(A) : PHOTOCOPY OF THE POSTAL RECEIPT. RESPONDENTS' EXHIBITS : ----- EXT.R6(A) : TRUE COPY OF THE

ORDER

ISSUED BY THE DISTRICT LABOUR OFFICER, THIRUVANATHAPURAM
DATED 03.12.2008 ALONG WITH ITS TRUE TRANSLATION IN ENGLISH.
EXT.R6(B) : TRUE COPY OF THE

ORDER

DATED 16.07.2014 ALONG WITH ITS TRUE TRANSLATION IN ENGLISH. /TRUE
COPY/ PA TO JUDGE ASHOK BHUSHAN, Ag.C.J.

& A.M. SHAFFIQUE, J.

----- W.P.(C) No. 19211 OF 2014-----
----- Dated this the 20th day of August, 2014

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking for a direction to the 3rd respondent to provide adequate and effective police protection to the life of the petitioners to conduct business in their respective shops under the Agricultural Wholesale Market Authority, Anayara, Thiruvananthapuram.

2. The contention urged by petitioners is that they are carrying on business in vegetables and egg in the market. The area in question is not a scheme covered area under the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983. They have their own employees to do the loading and unloading works in their respective shops. The complaint is that respondents 5 to 10 who are Conveners of certain Unions in the area engaged in headload work are demanding that they alone should be permitted to carry on the work in the petitioners' shops and they are making illegal WP(C) No. 19211 of 2014 :-2:- demands by way of 'nokku koolie'. On account of the threat by respondents 5 to 10, petitioners have approached the 3rd respondent seeking police protection and since no action has been taken in the matter, they have approached this Court.

3. Learned counsel appearing for 4th respondent submits that as matters stand now, the area in question is not a scheme covered area and a decision has

already been taken by the Committee to include the area in question also as a scheme covered area, which will be done within 15 days.

4. Counter affidavit has been filed on behalf of respondents 5, 6 & 8 to 10 inter alia stating that they have been working as headload workers since last several years and they alone have the right to do the loading and unloading work in the area. So far as the petitioners are concerned, they do not have any permanent registered workers under the provisions of Rule 26A of the Headload Workers Rules. According to them, they have not obstructed the work of petitioners and they have not demanded "nokku koolie" as contended by the petitioners. But they are entitled to work in the area and petitioners have no cause of action to approach this Court. WP(C) No. 19211 of 2014 -:3:- 5. As matters stand now, as the area is not a scheme covered area, members of respondent Unions 5 to 10 have no right to demand that they alone should be permitted to do the loading and unloading work of petitioners. Petitioners are entitled to engage their own permanent workers to carry on loading and unloading work which cannot be prevented by respondents 5 to 10. However, the issue might be different when the area is declared to be a scheme covered area. In such circumstances, if the petitioners do not have their own registered permanent workers, it will be possible for the registered workers in the area to claim loading and unloading work in the business concern of the petitioners. But, as already indicated, as matters stand today, respondent Nos.5 to 10 have no legal right to demand that they alone should be engaged. However, if they have any claim, they have no right to prevent the petitioners from carrying on their business activity, but they have to approach the competent authorities under the Labour Laws to substantiate their claim for employment, which authority has to consider the same in accordance with the procedure prescribed. WP(C) No. 19211 of 2014 -:4:- 6. Hence this writ petition is disposed of as under: i. The 3rd respondent shall provide adequate police protection to the petitioners to carry on their business activity in their premises without any hindrances from members of respondent Unions 5 to 10. ii. The right of respondent Nos.5 to 10 to claim employment will be subject to the decision of the competent authority in the event any claim is made by them. iii. This order shall remain in force only until proclamation of the area is declared as a scheme covered area and in which event the concerned authorities shall decide the question as to whether the petitioners

are entitled for continuing their loading and unloading work done through their own permanent employees. Ashok Bhushan, Acting Chief Justice. A.M. Shaffique, Judge. ttb/20/08 WP(C) No. 19211 of 2014 -:5:-

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