

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

Con.Case(C).No. 149 of 2015 (S) IN WP(C).19378/2014

AGAINST THE ORDER IN I.A.NO.15128/2014 IN WP(C) 19378/2014 of HIGH COURT OF
KERALA DATED 11.11.2014
PETITIONERS/ADDL.RESPONDENTS 4 TO 6:

1. SIDDUQE PALLIYATH
S/O.HUSSAIN KUTTY, PALLIYATH HOUSE, VILLA-A-7
SABAN GOLDEN VILLAGE, VALIYA PARAMBU, PUTHUR P.O.
KOTTAKKAL, MALAPPURAM-676503.
2. MOHAMMED KHURAISE P.
S/O.MOHAMMED KUTTY, PARAVAKKAL HOUSE, R1-B
SABAN GOLDEN VILLAGE, VALIYA PARAMBU, PUTHUR P.O.
KOTTAKKAL, MALAPPURAM-676503.
3. M.RAJAN
S/O.K.MADHAVAN, MAVARTHALA HOUSE, B-4-F1
SABAN GOLDEN VILLAGE, VALIYA PARAMBU, PUTHUR P.O.
KOTTAKKAL, MALAPPURAM-676503.

BY ADVS.SRI.M.VIJAYAKUMAR
SRI.ANEESH JOSEPH

RESPONDENT/1ST RESPONDENT :

NOUSHAD ALI
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONERS
MANAGING DIRECTOR
M/S. TIXI DEVELOPERS AND INFRA STRUCTURES PVT.LTD.
MALAPPURAM ROAD, KOTTAKKAL, MALAPPURAM - 678 001.

R BY ADVS. SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH(E)

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON
17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES :

ANNEXURE A1 : CERTIFIED COPY OF THE INTERIM ORDER IN I.A.NO.15128/2014 IN WPC 1978/2014 DATED 11.11.2014

ANNEXURE A2 : PHOTOGRAPH SHOWING THE RESPONDENT IS MAKING CONSTRUCTION ON THE ROAD

ANNEXURE A3 : PHOTOGRAPH SHOWING THE RESPONDENT IS MAKING CONSTRUCTION ON THE ROAD

ANNEXURE A4 : PHOTOGRAPH SHOWING THE RESPONDENT IS MAKING CONSTRUCTION ON THE ROAD

RESPONDENT'S ANNEXURES :

ANNEXURE R1(a) : PHOTOGRAPHS SHOWING THE CONSTRUCTION AND THE AREA.

/TRUE COPY/

P.A TO JUDGE

AV

K.SURENDRA MOHAN, J.

Cont.Case(C) No.149 of 2015

Dated this the 17th day of March, 2015

J U D G M E N T

This contempt case has been filed alleging violation of the interim order dated 11.11.2014 in I.A.No.15128/2014 in WP(C). No.19378/2014. The learned counsel for the petitioner places reliance on Annexures A2 to A4 photographs to show that the building that is visible therein, under construction is protruding on to the disputed road.

2. A counter affidavit has been filed. The learned counsel for the respondent submits that, the original plan of the respondent was to make construction above the road, connecting two buildings on either sides thereof. It was for the said reason that, the portion proposed to be constructed over the road was interdicted by this Court. No such construction has actually been made. According to the counsel, no construction encroaching upon any portion of the road has been effected as evident from Ext.R1(a) photographs. It is only because of the angle from which the petitioner has taken Annexures A2 to A4 photographs that there appears to be some kind of encroachment. A reply affidavit has also been filed by the petitioner.

3. Heard. What has been recorded in the interim order is that, no construction be made over the road in question. Annexure R1(a) photographs show that, no construction has been made over the road.

The photographs also do not show that there has been any violation of the interim order passed. Whether the construction violates any of the provisions of the Building Rules, is a matter that has to be enquired into by the statutory authorities. The counsel for the respondent also submits that, the proposal to make construction over the road is not being pursued now.

In view of the above, I do not find any grounds to proceed further with this Contempt Case. The same is therefore closed.

Sd/-
K.SURENDRA MOHAN, JUDGE.

AV