

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

Con.Case(C).No. 1828 of 2007 (S)

**AGAINST THE ORDER/JUDGMENT IN WP(C) 142/2006 of HIGH COURT OF KERALA DATED
20-07-2006**

PETITIONER(S)/PETITIONER:

**ADV.M.A.SALAM,SECRETARY, KOLLAM BAR
ASSOCIATION, KOLLAM, RESIDING AT HOUSING BOARD
FLAT, CHINNAKKADA, KOLLAM.**

BY ADV. SRI.V.JAYAPRADEEP

RESPONDENT(S)/RESPONDENTS:

- 1. DR.NIVEDITA P.HARAN, AGED BAOUT 50 YEARS
FATHERS NAME NOT KNOWN PRINCIPAL SECRETARY
REVENUE DEPARTMENT SECRETARIAT, THIRUVANANATHAPURAM
RESIDING AT THIRUVANANATHAPURAM E MAIL :PRISECY
@ REVENUE, KERALA GOV. IN**
- 2. K.J.MATHEW, AGED ABOUT 55 YEARS
FATHERS NAME NOT KNOWN ADDL CHIEF SECRETARY
DEPARTMENT OF HOME& VIGILANCE , SECRETARIAT
THIRUVANANATHAPURAM E MAIL :PRISECY, @ REVENUE
KERALA GOV. IN**

**BY SPL.ADV. GOVERNMENT PLEADER SMT.GIRIJA GOPAL
BY ADV. SRI.G.JOSEPH (PARTY IN PERSON)**

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON
11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

COC NO.1828/2007

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A1: COPY OF THE JUDGMENT WPC NO.142/2006(S) DATED 20.7.2006.

ANNEXURE A2: COPY OF THE COMMUNICATION OF THIS HON'BLE COURT DATED 14.12.2005.

ANNEXURE A3: COPY OF THE LETTER DTD 5.1.2006 OF THE DISTRICT COLLECTOR, KOLLAM WITH TRANSLATION.

ANNEXURE A4: COPY OF THE LETTER OF THE PORTFOLIO JUDGE IN ADMINISTRATIVE CHARGE OF THE JUDICIAL DISTRICT OF KOLLAM, TO THE PRINCIPAL HOME SECRETARY OF THE GOVT OF KERALA DTD 6.12.13.

Rp

TRUE COPY

PS TO JUDGE

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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Cont.Case (C) No.1828 of 2007

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Dated this, the 11th day of June, 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the petitioner and the learned Government Pleader.

2. This contempt petition has been filed seeking initiation of contempt proceedings for non compliance of judgment dated 20th of July, 2006 passed in W.P (C) No. 142/2006. The said writ petition was filed by Advocate M.A.Salam, President of Kollam Bar Association wherein Division Bench of this Court disposed of the case directing the Government either to transfer the land identified by the District Judge and report to the Registrar for establishing a Court Complex or to notify such other Government land that may be suitable for establishing a Court Complex. The Court further observed that land shall be identified for establishing a Court Complex as expeditiously as possible and not later than 6 months from the date of the judgment. Complaining

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non compliance of the said judgment, this contempt application has been filed.

3. Counter affidavit has been filed in the contempt application where various correspondences and efforts made by the Government for identifying the land has been referred to. In paragraphs 4, 5 and 6 of the counter affidavit dated 23rd of January, 2008, following have been stated;

"4. An extent of 1.8 hectares of land belongs to the Kerala State Port Department was identified and reported to the Registrar of this Hon'ble High Court of Kerala by the District Judges, Kollam. But later the authorities from the Port Department informed that the land in their possession was inevitable for the Development of the Kollam Port. It was also reported that they have already expended about Rs.20 Crores for the Development of Thankassery Port. Therefore, other options were examined. Subsequently, the District Collector had pointed out the Government Puramboke Land for the above purpose and the details of following lands were communicated to the District Judge for inspection and satisfaction.

- 1. An extent of 40.47 acres of land in Sy.No.34 Block No.55 of Kollam East Village.*
- 2. 38.16 ares of land in Sy.No.18 B1 No.149 of Mundakkal Village.*

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3. 1.17.35 Hectares of Land in RS No.40 of Kollam West Village.

5. The District Judge intimated that the judicial department is in need of a minimum of 3.5 to 4 acres of land as a compact plot for constructing the Court Complex. The above criterion is satisfied only for the site referred to in serial no. 3 and the land owner - Poultry Development Department raised difficulties in transferring the same. In the circumstances the District Judge was requested to inspect and examine the land in Kollam East Village mentioned as 1st above and consider it for the Court complex and to look for another plot for residential quarters. This was agreed to in the meeting taken by this respondent on 9.1.2007. However subsequently vide letter dated 11.1.2007 the District Judge, Kollam requested Government to keep in abeyance further action till orders are received from the Hon'ble High Court.

6. It is submitted that Government have identified the land for the construction of Court complex, Kollam as ordered by the Court in the judgment dated 20.7.2006. Later the Government land identified was not accepted by the District Judge, Kollam and suggested to acquire certain land near civil station, Kollam which was identified by the petitioner. The land contains 13 buildings and 5 residential buildings. Since there was Government land available for the purpose and the acquisition of private land is not an

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easy task a meeting with the petitioner, District Judge, Kollam, Revenue authorities was again conducted by Additional Chief Secretary (Home & Vigilance) on 16.1.2008. The petitioner and the District Judge have opined that acquisition of private land is not necessary and that it will cause more delay due to procedural formalities and paucity of fund for the purpose and the purpose of construction of court complex will be delayed.

4. The minutes of the meeting held on 16/1/2008 has also been annexed as R1 where certain considerations were noted and recorded. Learned Government Pleader further submits that W.P (C) No. 7574/11 has been filed by *Kollam Court Complex Action Committee v. State of Kerala* where Government Order dated 26/2/2011 was challenged by which the land was identified for a court complex. In the writ petition, an interim order was granted by the court on 10/3/11. The petitioners have challenged the Government Order on the ground that the land identified is fully unsuitable for the Complex. The said writ petition is still pending.

5. In view of the facts as noted above, we are of the view that there is no wilful contempt of the judgment of this Court

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dated 20th of July, 2006. Several steps taken as noted above by the Government clearly indicated that Government has with earnest endeavour proceeded to identify the land and ultimately a land was identified and Government Order was issued which is under stay of this Court. Learned counsel for the petitioner submitted that no finality with regard to land has yet been made and matter is still under scrutiny. We do not find any wilful contempt on the part of the Government so as to proceed with this petition.

Contempt case is closed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge