

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

Con.Case(C).No. 726 of 2015 () IN WP(C).24890/2014

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AGAINST THE ORDER/JUDGMENT IN WP(C) 24890/2014 of HIGH COURT OF KERALA
DATED 31-10-2014**

PETITIONER(S)/PETITIONER IN WPC :

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THE BAKER HILL RESIDENTS ASSOCIATION AGED 53 YEARS
KALLARACKAL BUILDINGS, MISS EAST ROAD, KOTTAYAM.**

BY ADV. SRI.RAMESH CHERIAN JOHN

RESPONDENT(S)/RESPONDENT IN WPC :

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A.C.KURIAKOSE, AGED 55 YEARS
(SON OF NOT KNOWN), RESIDING AT KANJIKUZH, KOTTAYAM
SECRETARY, KOTTAYAM MUNICIPALITY, KOTTAYAM-686 001.**

**R1 BY ADV. SRI.S.RANJIT (KOTTAYAM)
R BY SRI.PHILIP J.VETTICKATTU**

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

ANNEXURE 'A'	TRUE COPY OF THE JUDGMENT DATED 10.10.2013 IN WP(C) No.22393 OF 2013 PASSED BY THIS HON'BLE HIGH COURT.
ANNEXURE 'B'	TRUE COPY OF THE COVERING LETTER DATED 11.11.2013 OF THE PETITIONER.
ANNEXURE 'C'	TRUE CERTIFIED COPY OF THE JUDGMENT DATED 31.10.2014 IN WP(C) No.24890/2014 PASSED BY THIS HON'BLE HIGH COURT.
ANNEXURE 'D'	TRUE COPY OF THE APPLICATION DATED 08.12.2014 FILED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT.
ANNEXURE 'E'	TRUE COPY OF THE LETTER DATED 06.12.2014 SERVED ON THE PETITIONER.
ANNEXURE 'F'	TRUE COPY OF THE LETTER DATED 26.12.2014 IN REPLY TO THE INFORMATION SOUGHT FOR UNDER THE RIGHT TO INFORMATION ACT.
ANNEXURE 'G'	TRUE COPY OF THE ORDER OF INJUNCTION DATED 06.01.2015.
ANNEXURE 'H'	TRUE COPY OF THE APPLICATION DATED 13.01.2015 FILED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT.
ANNEXURE 'I'	TRUE COPY OF THE LETTER DATED 23.01.2015 ISSUED TO THE PETITIONER.
ANNEXURE 'J'	TRUE COPY OF THE ORDER OF THE TRIBUNAL OF LOCAL SELF GOVERNMENTS DATED 13.01.2015.
ANNEXURE 'K'	TRUE COPY OF THE APPLICATION DATED 04.02.2015. OF THE PETITIONER.

RESPONDENT'S EXHIBITS:-

ANNEXURE R1(a)	TRUE COPY OF THE ORDER DATED 06.12.2014 BEARING NUMBER 12206/2013.
ANNEXURE R1(b)	TRUE COPY OF THE LETTER DATED 31.12.2014 BEARING NUMBER PW1/12206/13.
ANNEXURE R1(c)	TRUE COPY OF THE LETTER DATED 07.01.2015 SENT TO CIRCLE INSPECTOR OF POLICE, KOTTAYAM WEST POLICE STATION.
ANNEXURE R1(d)	TRUE COPY OF THE AFFIDAVIT FILED BY REV.DR.SABU K. CHERIAN.
ANNEXURE R1(e)	TRUE COPY OF THE ORDER DATED 06.01.2015 BEARING NUMBER PW1/12206/13.

// True copy //

PA to Judge

A.K.JAYASANKARAN NAMBIAR, J.

Cont. Case (C). No. 726 of 2015

Dated this the 22nd day of June, 2015

JUDGMENT

The petitioner has filed this Contempt of Court case alleging non-compliance with the direction of this Court in the judgment dated 31.10.2014. By the said judgment, the 2nd respondent was directed to pass orders in the appeal preferred against Ext.P5 order, within a period of two weeks from the date of receipt of a copy of the judgment, after hearing the appellant as well as the petitioner. It was also directed that if, for any reason, the Municipality was not able to dispose the appeal within the aforesaid period of two weeks, then it had to take immediate steps to remove the obstruction in implementation of Ext.P5 order that was already passed by it.

2. In the Contempt of Court Case the contention of the petitioner is that, while no order was passed in the appeal as directed, within two weeks from the date of receipt of the judgment, the Municipality also did not take any positive steps to remove the obstruction in implementation of Ext.P5 order, that was already passed by it. In the counter affidavit filed on behalf of the respondent, details are given with regard to the steps taken by the Municipality. I find that, pursuant to the receipt of the judgment,

the Municipality had visited the site in question and had assessed the situation at the site. Thereafter, it was found that a feasibility study had to be done in order to find a solution to the problem that was presented at the site. The order, that was directed to be passed in the appeal, was passed on 06.12.2014 and thereafter, steps were taken to try and remove the obstruction, that was put up by the CSI, by availing assistance from the Circle Inspector of Police, Kottayam also. It is pointed out that, while steps were afoot to remove the obstruction, the CSI produced a copy of the interim order of stay, that had been granted in a revision petition filed by them, against the order passed in appeal by the Municipality. It was therefore, that the work could not be proceeded with.

On a perusal of the affidavit filed by the respondent in the Contempt of Court case, I find that the respondent has taken earnest steps to comply with the directions in the judgment, but for a marginal delay in the passing of the appellate order, for which the respondent could have approached this Court for an extension of time. At any rate, there is no willful disregard of the directions issued by this Court in the judgment dated 31.10.2014.

Under the said circumstances, taking on record the counter affidavit filed by the respondent, and taking note of the unconditional apology tendered therein, I close the Contempt of Court case.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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