

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

Con.Case(C).No. 1219 of 2015 (S)

WP(C) 20056/2015 of THIS HONOURABLE COURT

PETITIONERS/PETITIONERS IN WPC:

- 1. PAULSON STEPHEN, AGED 47 YEARS
S/O. ESTHAPPANOS, PALLICKA HOUSE, PALARIVATTON P.O.
KOCHI 682 025, NOW RESIDING AT PALLICKA HOUSE,
KOTTAMAM, NEELESWARAM P.O., (VIA)
KALADI 683 584.**
- 2. JOHN STEPHEN, AGED 45 YEARS
S/O.ESTHAPPANOS, PALLICKA HOUSE, PALARIVATTON P.O.,
KOCHI 682 025, NOW RESIDING AT PALLICKA HOUSE,
KOTTAMAM, NEELESWARAM P.O., (VIA)
KALADI 683 584.**
- 3. BABU STEPPHEN, AGED 47 YEARS,
S/O.ESTHAPPANOS, PALLICKA HOUSE, PALARIVATTON P.O.
KOCHI 682 025, NOW RESIDING AT PALLICKA HOUSE,
KOTTAMAM, NEELESWARAM P.O., (VIA)
KALADI 683 584.**

**BY ADVS.SRI.M.RAMACHANDRAN (KALOOR)
SMT ANNA THOMAS**

RESPONDENT/3RD RESPONDENT IN WPC :

**SMT.SMITHA, ASST. EXECUTIVE ENGINEER, CORPORATION OF COCHIN
(ZONAL OFFICE), EAPPALLY, KOCHI - 682 024.**

BY SRI.RAAJESH S.SUBRAHMANIAN,SC,

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 22/9/2015 , THE COURT ON 01-10-2015 DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S ANNEXURES :

**ANNEXURE A1: COPY OF INTERIM ORDER DT 3/7/2015 IN
WPC NO. 20056/2015-F**

**ANNEXURE A2: COPY OF THE SPECIAL NOTICE DT 9/12/2010 ASSIGNING THE
BUILDING NUMBER 35/59 A BY SPLITTING THE EXISTING
BUILDING NUMBR ISSUED BY THE COCHIN CORPORATION.**

**ANNEXURE A3: COPY OF THE SPECIAL NOTICE DT 9/12/2010 ASSIGNING THE
BUILDING NUMBER 35/59 B BY SPLITTING THE EXISTING
BUILDING NUMBER ISSUED BY THE COCHIN CORPORATION**

RESPONDENT'S ANNEXURES : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI, J.

Cont. Case (C) No. 1219 of 2015

in

W.P.(C) No. 20056 of 2015

Dated this the 1st day of October, 2015

J U D G M E N T

The petitioners are the beneficiaries of Annexure A1 interim order dated 03.07.2015 in the writ petition, by which, the respondent corporation was directed to number the building of the petitioners provisionally and to issue occupancy certificate within a time frame. The case of the petitioners is that though a copy of the said interim order was handed over to the Superintendent of the Cochin Corporation for appropriate action on the very next working day, the respondent is adopting a recalcitrant attitude and delaying compliance. It is with this background, the petitioners have come up before this Court.

2. The respondent, on appearance, filed an affidavit stating that the provisional numbering has

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already been granted to the building, which is the subject matter of the writ petition; and the petitioners have already acknowledged the same. Ext.R(A) is the notice dated 14.09.2015, granting provisional numbering of the building. Therefore, according to the respondent, there is no willful delay on the part of the respondent in complying with the order passed by this Court.

3. The petitioners have filed a reply affidavit, wherein it is stated that the petitioners got their properties from their father as per settlement deed in 2006. According to them, this was a single storied building with three rooms, to which the respondent corporation assigned separate building numbers treating the same as owned by different persons. Building No.35/58 is owned by the 3rd petitioner, Building No.35/59A is owned by the 1st petitioner and Building No.35/59B is owned by the 2nd petitioner. According to the petitioners, on the basis of Ext.P1 building permit, they constructed an additional floor and made an

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application for numbering the same. They point out that to wreck vengeance for filing the contempt case, the respondent has numbered the whole building as a single unit, which, according to the petitioners, is done by the respondent only to harass the petitioners. The petitioners have produced Annexures A2 & A3, which are the copies of the said notices dated 09.12.2010 assigning Building Nos.35/59A & 35/59B. According to the petitioners, they have been remitting property tax towards three building numbers. However, the respondent has issued Annexure R(A) notice, taking away the existing three building numbers and assigning a single building number to the whole building and fastened liability on the petitioners to pay arrears of tax since October, 2014.

4. It is true that what was directed in the interim order was to number the building, which was additionally constructed. However, now, instead of allotting separate building numbers to the newly constructed portion, the entire building is reckoned as a single unit and a number

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was given. In my view, it is a fresh cause of action, against which, the petitioners can seek appropriate remedies.

So long as a building number has been assigned to the newly constructed portion also, the contempt case is closed reserving the right of the petitioners to challenge the subsequent action of the respondent in appropriate proceedings.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-