

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

OP(C).No. 345 of 2015 (O)

**I.A.NO.236/2013 IN C.M.A.NO.12 OF 2013 OF THE ADDL.DISTRICT JUDGE-I,
THIRUVANANTHAPURAM**

PETITIONER(S) :

**M/S.WEBUILD (P) LTD AND T.K.RAJAN
(JOINT VENTURE HAVING ITS REGISTERED OFFICE AT T.C.16/1713,
JAGATHY, THIRUVANANTHAPURAM, REPRESENTED BY
SRI.C.KAMALASANAN, MANAGING DIRECTOR, WEBUILD (P) LTD,
AGED 73 YEARS, S/O.LATE CHELLAPPAN, RESIDING AT SRUTHI,
T.C 16/712, JAGATHY, THIRUVANANTHAPURAM- 695 014.**

BY ADV. SRI.BASANT BALAJI

RESPONDENT(S):

**THE CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY,
CORPORATION BUILDING, THIRUVANANTHAPURAM- 695 001.**

BY ADV. SRI.P.K.MANOJKUMAR, S.C

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 06-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

OP(C).No. 345 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE PLAINT IN O.S.NO.1362 OF 2013 ON THE FILES OF
THE PRINCIPAL MUNSIFF'S COURT, THIRUVANANTHAPURAM.**

EXHIBIT P2: TRUE COPY OF THE ORDER DATED 07.01.2013 IN O.S.NO.1362/2012.

**EXHIBIT P3: TRUE COPY OF THE ORDER DATED 20.12.2014 IN I.A.NO.236/2013 IN
C.M.A.NO.12/2013.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

P. BHAVADASAN, J.

O.P.(C). No. 345 of 2015

Dated this the 6th day of February, 2015.

JUDGMENT

Under challenge is the order dated 20.12.2014 in I.A. No. 236 of 2013 in C.M.A. No. 12 of 2013.

2. The C.M.A. was directed against the order in I.A. 6406 of 2012 in O.S. 1362 of 2012 by which the trial court dismissed the I.A. filed by the plaintiff in the suit.

3. The petitioner as plaintiff has instituted O.S. 1362 of 2012 for permanent prohibitory injunction as well as for consequential reliefs. The plaintiff was engaged to carry out certain works by the Corporation after the formalities were completed. There was difference of opinion and notice was issued to the petitioner to remove certain articles kept in the site. The petitioner challenged the said notice in the suit and moved an I.A. for injunction. That was dismissed by the trial court. Before the appellate court in

C.M.A. an application as I.A. 236 of 2013 was filed for interim injunction against the Corporation from insisting for removing the articles immediately. The court below by the impugned order declined to grant the relief and directed removal of the articles forthwith. It is the said order that is challenged before this Court.

4. Learned counsel appearing for the petitioner pointed out that the prayer is confined to the extent that the petitioner may be given time till 31.3.2015 to remove the entire articles, and also that the suit itself will be withdrawn on removal of the articles.

5. Shri. P.K. Manoj Kumar appears for the Corporation. Counsel appearing for the Corporation pointed out that they have no objection to the above suggestion provided an affidavit is filed before the trial court undertaking to remove the articles before 31.3.2015 and to withdraw the suit before that date.

6. In the light of above stand of the respondent, this Original Petition is disposed of setting aside the order of the court below and granted time to the petitioner till 31.3.2015 to remove the articles in compliance with the notice issued by the Corporation and withdraw the suit also, provided the petitioner files an undertaking to the above effect within two weeks from today.

P. BHAVADASAN,
JUDGE

sb.