

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WA.No. 1216 of 2011 IN WP(C).16273/2011

AGAINST THE JUDGMENT IN WP(C) 16273/2011 DATED 01-08-2011

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APPELLANT/3RD RESPONDENT :

AJOY L.S, S/O.SUKUMARAN NAIR,
AGED 44 YEARS, RESIDING AT KAUSTHUBHAM, KEEZHCHERIMEL
CHENGANUR, ALAPPUZHA DISTRICT.

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENTS/PETITIONER & RESPONDENTS 1 AND 2 :

1. SIVAPARVATHI EDUCATIONAL AND CHARITABLE
SOCIETY (SPECS) CHENGANUR, REGISTER NO.A3010/06
REP BY ITS GENERAL SECRETARY K.MURALI MANOHAR
S/O. KRISHNAPILLI, MALAYIL PARAMBIL HOUSE
KEEZHCHERIMEL, CHENGANUR, ALAPPUZHA DISTRICT - 689 121.
2. THE CHENGANUR MUNICIPALITY,
REP BY ITS SECRETARY, CHENGANUR - 689 121.
3. THE SECRETARY
CHENGANUR MUNICIPALITY, CHENGANUR - 689 121.

R1 BY ADVS. SRI.B.S.SWATHY KUMAR

SMT.M.G.AISHWARYA

R2 & R3 BY SRI.S.HARIKRISHNAN,SC,CHENGANNUR MUNICIPALITY

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 10-02-2015,
ALONG WITH WA. 1220/2011, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ASHOK BHUSHAN, Ag.C.J. & A.M. SHAFFIQUE, J.

W.A. Nos. 1216 and 1220 OF 2011

Dated this the 10th day of February, 2015

JUDGMENT

Shaffique, J.

These appeals have been filed by the appellant who is the writ petitioner in W.P.(C) No.14377 of 2011 and 3rd respondent in W.P.(C) No. 16273 of 2011 challenging the common judgment dated 01.08.2011 in the aforesaid writ petitions.

2. W.P.(C) No.16273 of 2011 is filed by a registered Society, which is running a school, seeking for a declaration that said institution is entitled for a completion certificate of a building which they have completed on the basis of the permit issued by the Municipality. W.P.(C) No. 14377 of 2011 is filed by the appellant seeking for a direction to the respondent Municipality not to issue the completion certificate, without obtaining the occupancy certificate in terms of Rule 22(3) of the Kerala Municipality Building Rules, 1999. The appellant had objected the construction of building by the petitioner Society inter alia

contending that the building was being constructed in paddy land as defined under the Kerala Conservation of Paddy Land & Wetland Act, 2008. On the basis of said complaint, enquiry was taken up by the Municipality and during the said process, stop memo had been issued by the Village Officer pursuant to the direction issued by the Revenue Divisional Officer. It is contended by learned counsel for the appellant that proceedings pursuant to Exts.P6 to P8 are pending.

3. It is pointed out by learned counsel appearing for the Municipality that the Revenue Divisional Officer has already passed a final order stating that most of the properties in possession of the Society are not paddy land as defined under the Act and they are dry lands.

4. Having regard to the aforesaid changed circumstances as stated by learned counsel for the Municipality, if at all any proceedings shall be initiated in this regard, the Municipality has to decide the issues taking into consideration the subsequent events also. In the said circumstances we do not find it necessary to modify the judgment of learned Single Judge as it

W.A. Nos. 1216 & 1220 of 2011

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is only a provisional order to grant completion certificate. It is for the Municipality to take a final decision in the matter after taking into consideration the issues raised by the appellant as well.

Under such circumstances the appeals are disposed of directing the Municipality to take appropriate action in accordance with the procedure prescribed after hearing the appellant and other affected parties.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**

ttb/10/02