

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WA.No. 1480 of 2011 () IN WP(C).5921/2007

AGAINST THE JUDGMENT IN WP(C) 5921/2007 of HIGH COURT OF KERALA DATED
31-05-2011

APPELLANT/PETITIONER:

DEEPU .R. UNNITHAN,
T.C. 2/1155(1) MURINJAPALAM, PATTOM
THIRUVANANTHAPURAM FROM DEEPANJALY, T.C.3/2174
LIC LANE-G, H.NO.L-155, REP. BY HIS
P/A. HOLDER K.MADHU, S/O.KRISHNAN NAIR, VYSAKH
T.C.29/1656, PALKULANGARA, THIRUVANANTHAPURAM-8

BY ADV. SRI.SABU GEORGE

RESPONDENTS/RESPONDENTS:

1. CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY
THIRUVANANTHPURAM-695001.

2. SACHITHANANTHAN, ABHIRAMAM,
MANGANNOOR KONAM, PATTOM.P.O.
THIRUVANANTHAPURAM-695004.

R,R-1 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
R,R-1 BY ADV. SRI.P.K.MANOJKUMAR
R2 BY ADV. DR.S.GOPAKUMARAN NAIR (SR.)
R2 BY ADV. SRI.M.CHANDRA BOSE
R2 BY ADV. SRI.A.RAJASIMHAN
R BY SRI.M.CHANDRA BOSE

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 07-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

**ANTONY DOMINIC &
P.V.ASHA, JJ.**

W.A.No.1480 of 2011

Dated this the 7th day of October, 2015

JUDGMENT

Antony Dominic, J.

In this appeal the appellant challenges the judgment of the learned single Judge in W.P.(C) No.5921 of 2007. The said writ petition was filed by the appellant challenging Ext.P2 order of the Thiruvananthapuram Corporation and Ext.P8 order passed by the Tribunal for Local Self Government Institutions confirming Ext.P2. By the judgment under appeal the learned single Judge dismissed the writ petition. It is this judgment which is under challenge.

2. We heard the learned counsel for the appellant, the learned standing counsel for the first respondent and the learned counsel for the second respondent.

3. The dispute in this writ appeal pertains to a toilet and work area constructed by the first respondent which admittedly is in violation of the provisions contained in the Kerala Municipality

Building Rules. There were several litigations on the issue and finally Ext.P2 order was issued by the first respondent, wherein the appellant was directed to demolish the objectionable part of the building and was given liberty to apply for regularisation. It was this order which was confirmed by the Tribunal by Ext.P8 order.

4. Having heard the counsel for the parties and also going through the pleadings, we find that this is admittedly a case where construction in question was made in violation of the Building Rules. Therefore such construction is liable to be demolished, unless it is regularised in terms of the provisions of the Building Rules itself. In such circumstances, while confirming the judgment under appeal, we direct that the implementation of Exts.P2 and P8 would stand suspended for a period of three months from today. If in the meanwhile, after complying with all procedural requirements, the appellant makes an application for regularisation of the construction, the first respondent will pass orders thereon and until such orders are passed Exts.P2 and P8 shall not be implemented. On the other hand, if such an

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application is not made, the corporation will take steps for the implementation of the impugned orders, on the expiry of three months period specified by us.

The writ appeal is disposed of accordingly.

Sd/-
ANTONY DOMINIC,
JUDGE.

Sd/-
P.V.ASHA,
JUDGE.

rkc