

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

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WA.No. 166 of 2015 IN WP(C).16251/2014

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AGAINST THE ORDER DATED 15.01.2015 IN I.A. No.215/2015 IN W.P.(C)  
No.16251/2014

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APPELLANTS/RESPONDENTS 4 TO 6 :  
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1. SHAMMY THILAKAN, AGED 47 YEARS,  
S/O.SURENDRANATH THILAKAN, PAIAPURAM, J.N.R.A 3  
OPPOSITE S.N.VANITHA COLLEGE, KOLLAM 691 001.
2. T.N. RAVINDRAN  
"SHADALE", JNNRA - 1, OPP.S.N.COLLEGE FOR WOMEN  
KOLLAM - 691 001.
3. NAZARATH MANUAL  
"ROSEDALE", INNRA - 1, OPP.S.N.COLLEGE FOR WOMEN  
KOLLAM - 691 001.

BY ADVS.SRI.N.DHARMADAN (SR.)  
SRI.R.GOPAN

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 3:  
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1. S.SREEKUMAR,MANI'S FAMILY MART,  
OPP.S.N.COLLEGE, KOLLAM -691 001.
2. KERALA STATE POLLUTION COTROAL BOARD,  
REP. BY ITS CHAIRMAN, HEAD OFFICE, PLAMOOD  
PATTOM, THIRUVANANTHAPURAM - 695 004.
3. ENVIRONMENT ENGINEER,  
KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICE, KOLLAM - 691 008.
4. AIR AND WATER APPELLATE AUTHORITY,  
POOJAPURA, THIRUVANANTHAPURA -695 012.

R1 BY SRI.M.R.ANISON

R2 & R3 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02-02-2015,  
ALONG WITH CAC. 1/2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

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

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W.A. No. 166 OF 2015

and

Contempt Appeal (C) No. 1 of 2015

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Dated this the 2<sup>nd</sup> day of February, 2015

**JUDGMENT**

**Ashok Bhushan, Ag.C.J.**

These Appeals have been filed against the common judgment dated 15.01.2015 in I.A. No.215 of 2015 in W.P.(C) No.16251 of 2014 as well as Contempt Case Nos.5 and 56 of 2015.

2. The Writ Petition was disposed of by the learned Single Judge. Thereafter an application was filed for clarification of latter portion of paragraph 2 of the judgment dated 23.07.2014. Application for proceeding with the contempt case was also filed. Learned Single Judge passed a common order disposing the Contempt of Court cases as well as I.A. No.215 of 2015. The ground for initiating the Contempt Case was that the appellate authority was directed to decide the appeal within two months but the appeal has not been considered within the time limit allowed by the Court. The appeal was posted to 29.01.2005. Learned Single Judge took

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note of the fact the appeal is posted for hearing on 29.01.2015, observed that the Court is not proceeding with the Contempt Case. However, it was observed that the appellate court shall dispose of the matter as directed by the Court on the next posting date itself.

3. Learned Senior Counsel appearing for the appellant contended that the learned Single Judge was not justified in disposing the contempt cases along with the application for clarification. If there is contempt, he ought to have referred the matter to Division Bench. He has placed reliance on the judgment reported in **State of Kerala and another v. Gopalan, M.P.** [2007(4) ILR 256].

4. Heard learned counsel for the appellant and perused the judgment of the learned Single Judge. A perusal of the judgment indicates that the learned Single Judge has considered I.A. No. 215 of 2015 along with the contempt cases and directed that on the next posting date, the appellate authority shall dispose of the appeal and the order passed earlier got clarified or

modified to the said extent. The Court in the circumstances of the case has rightly come to a conclusion that contempt has not been committed. Due to the above reason, the learned Single Judge has observed that the Court is not proceeding with the Contempt of Court Cases. Obviously, if the Court was satisfied that contempt has been committed, it is bound to refer the matter to the Division Bench. But Court having been taken the view that it is not a case for proceeding with the contempt case, no error has been committed by passing the order dated 15.01.2015.

5. In so far as the Division Bench judgment relied on by the appellant, there is no dispute to the preposition laid down that courts, sitting in the contempt jurisdiction, cannot issue directions in furtherance of the judgment. Present is not a case of issuing further direction in a contempt case, rather the learned Single Judge, while disposing of I.A. No.215 of 2015, has disposed the contempt cases as there is no willful contempt. Thus the Division Bench judgment is not applicable to the facts of the present case and does not help the appellant in any manner.

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In the above view of the matter no error has been committed by the learned Single Judge which may warrant interference by this Court. Accordingly, the Writ Appeal and Contempt Appeal are dismissed.

**Ashok Bhushan,  
Acting Chief Justice.**

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

ttb/02/02