

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WA.No. 1437 of 2015 ()

(AGAINST THE JUDGMENT IN WP(C).NO. 31547/2012 DATED 21-05-2015)

APPELLANT/PETITIONER:

**N.M.MOHANAN,AGED 56 YEARS,
S/O.NARAYANAN, 41/3350, YASORAM VICTORY TOWER,
BANERJI ROAD, ERNAKULAM.**

**BY ADVS.SRI.JOHNSON MANAYANI
SRI.BENHUR JOSEPH MANAYANI
SRI.JEEVAN MATHEW MANAYANI**

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF LOCAL SELF GOVERNMENT, SECRETARIAT,
TRIVANDRUM - 695 001.**
- 2. CORPORATION OF KOCHI,
O/O.KOCHI CORPORATION, ERNAKULAM - 682 011,
REPRESENTED BY ITS SECRETARY.**
- 3. SECRETARY, CORPORATION OF KOCHI,
O/O. KOCHI CORPORATION, ERNAKULAM - 682 011.**
- 4. THE TRIBUNAL FOR LOCAL SELF GOVERNMENT
INSTITUTIONS, TRIVANDRUM - 695 001,
REPRESENTED BY ITS SECRETARY.**
- 5. SREEDHARA VADHYAR,
M/S.YASORAM CONSTRUCTIONS COMPANY,
CONVENT JUNCTION,ERNAKULAM - 682 035.**

**R1 & R4 BY SR GOVERNMENT PLEADER SRI.P.I DAVIS
R2 & R3 BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION
SRI.S.CHANDRASENAN,SC
R5 BY SRI.S.R.DAYANANDA PRABHU**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

ASHOK BHUSHAN, C.J.

&

A.M.SHAFFIQUE, J.

.....

W.A.No.1437 of 2015

.....

Dated this the 13th day of July, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard learned counsel for the appellant, learned Government Pleader for 1st & 4th respondents and the learned Standing counsel for 2nd & 3rd respondents.

2. This writ appeal has been filed against the judgment dated 21.05.2015 passed in W.P.(C) No.31547 of 2012 by which judgment, the writ petition filed by the appellant has been dismissed by the learned single Judge. The appellant has filed the writ petition praying for directions or orders commanding respondent Nos.2 and 3 not to proceed against the appellant and his properties in pursuance of Ext.P7. Ext.P7 was an order issued by the Secretary of the Kochi Corporation, directing removal of the unauthorised construction.

3. The learned single Judge noticed the details of litigation earlier undertaken and has observed in paragraph No.8, which reads as follows :

“8. When the order passed by the Corporation directing to demolish the unauthorised construction, has been upheld in Ext.P5 order of the Tribunal in Appeal No.627/2005 and by this Court in W.P.(C) No.35444/2005 and when there is a further direction by the Tribunal for Local Self Government Institutions to execute Ext.P4 Order (MOP1/24425/04 of the Secretary), the petitioner cannot continue to retain the unauthorised constructions. The petitioner does not have any right to have the facilities for unauthorised constructions. The appropriate authorities have already found statutory violation in the constructions which are directed to be demolished. In case there are other violations at the instant of others, it is up to the Corporation to take action in case there is any further violation, in accordance with law. Such violations, if any will not enable the petitioner to escape from the orders for demolition.”

4. The learned counsel for the appellant submits that there has to be a separate notice and order for demolition of the construction. We see no substance in the said submission. An order was already passed directing for demolition and another order was passed for execution of the said order. When the matter was

taken up for consideration, the Tribunal confirmed the order and directed demolition of unauthorised construction. Matter is lingering for last ten years. We do not see any reason to interfere in the judgment. Accordingly, this writ appeal is dismissed.

Sd/-
ASHOK BHUSHAN, Chief Justice.

Sd/-
A.M.SHAFFIQUE, Judge.