

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WA.No. 1516 of 2015

JUDGMENT DATED 3.2.2015 IN WP(C) 32373/2005

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APPELLANT(S)/PETITIONER:

**THE GOVERNMENT SECRETARIAT STAFF
CO-OPERATIVE SOCIETY LIMITED NO.2620,
NEAR CITY POLICE CONTROL ROOM,
NORTH OF GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001,
REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.A.DINESH RAO

RESPONDENT(S):

- 1. THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF KERALA,
REVENUE (U) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE PRESIDENT,
KERALA SECRETARIAT ASSOCIATION
NEAR CITY POLICE CONTROL ROOM
NORTH OF GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**

**R2 BY ADV. SRI.G.S.REGHUNATH
R1 & R3 BY SPECIAL GOVERNMENT PLEADER SMT.GIRIJA GOPAL**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 09-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.A.No.1516 of 2015

Dated this the 9th day of September 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the petitioner and the learned Government Pleader.

2. This writ appeal has been filed against the judgment dated 03/02/2015 in W.P.C.No.32373/2015. The writ petition has been filed by the appellant challenging an order of assignment of the property to the 2nd respondent, who claimed to be registered service association duly approved by the Government. The appellant/petitioner claimed to be in occupation of the ground floor of the building whereas the 2nd respondent is in occupation of the 1st floor. The records indicate that the 2nd respondent was given the property in the year 1920, without any condition. The 2nd respondent association has been functioning since 1920. Government took a decision to assign the land to the 2nd respondent.

3. Aggrieved by the said assignment, petitioner had filed the writ petition praying for the following reliefs:

“i) Issue a writ of certiorari or other appropriate writ, order or direction quashing Ext.P1, P6 and P7.

ii) Issue a writ of mandamus or other appropriate writ, order or direction, directing the respondents not to disturb the petitioner's peaceful possession and enjoyment of the ground floor of the building and the premises thereof where the society is housed.”

4. Principal contention of the petitioner in the writ petition was that assignment is in violation of the Government Order dated 24/02/1975, Ext.P2. The learned Single Judge has disposed of the writ petition directing for reconsideration of the issue. Operative portion of the order is as follows:

“i. The first respondent shall consider the grievances of the petitioner as to whether the procedure contemplated by Exhibit P2 Government Order dated 24/02/1975 has been complied with the reasons for such non compliance shall be stated. A fresh order shall be issued after considering the above aspect, in relation to the assignment of land made by Exhibit P1 to the second respondent.

2. Appropriate orders in accordance with the above direction shall be issued, as expeditiously as possible and at any rate within a period of two months of the date of receipt of a copy of this judgment, after

affording an opportunity of being heard to the representative of the petitioner as well as the second respondent.

3. The learned counsel for the appellant, challenging the said order, contended that there was no public interest in the assignment of land and the petitioner also being in possession of the ground floor, which association is working since 1947, ought not to have been disturbed by the said assignment.

4. We have considered the submission of the learned counsel for the parties and perused the records.

5. On a perusal of the order extracted above, it is clear that the learned Single Judge has directed the 1st respondent to consider whether the procedure contemplated by Government order dated 14/02/2015 has been complied with. The learned Single Judge has also directed to pass a fresh order after considering all aspects. We are of the view that the grievance raised by the writ petitioner were fully met by the order passed by the learned Single Judge. The matter has to be reconsidered as per the order of the learned Single Judge, which needs no interference in this Writ appeal. It is not necessary for us to express any opinion on the various contentions raised by the

appellant in the matter which is yet to be considered by the Government and decision to be taken as per the order of the learned Single Judge.

With the above observation, this Writ appeal is dismissed.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr

