

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WA.No. 1603 of 2015 () IN WP(C).12954/2013

AGAINST THE JUDGMENT IN WP(C) 12954/2013 of HIGH COURT OF KERALA
DATED 16-06-2015

APPELLANT(S)/RESPONDENTS 2 & 3 IN WRIT PETITION:

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1. M.A.LATHEEF
S/O MALAKU RAWTHAR, JAMEELA MANZIL, METUPALAYAM STREET
PALAKKAD-678 002
 2. JAMEELA
W/O M.A.LATHEEF, JAMEELA MANZIL, METUPALAYAM STREET
PALAKKAD-678 002

BY ADV. SRI.SIRAJ KAROLY

RESPONDENT(S)/PETITIONER & RESPONDENTS 1,4,5 & 6 IN THE WRIT PETITION:

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1. THE PALAKKAD MUNICIPALITY
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE
PALAKKAD-678 001
 2. MOHAMMED SULTHAN, AGED 61 YEARS,
S/O MALAKU RAWTHAR, M.A.S. INDUSTRIES, DOOR NO. 343
KANNARA STREET, PALAKKAD-678 001
 3. THE SUB DIVISIONAL MAGISTRATE,
PALAKKAD-678 001
 4. THE SUB INSPECTOR OF POLICE
TOWN SOUTH POLICE STATION, PALAKKAD-678 001
 5. THE VILLAGE OFFICER
PALAKKAD-III VILLAGE, PALAKKAD 678 001

R1 BY ADV. SRI.T.C.SURESH MENON
R1 BY ADV. SRI.P.S.APPU
R3 TO R5 BY GOVERNMENT PLEADER SRI.VIJU THOMAS
R BY SRI.JACOB SEBASTIAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

W.A.No.1603 of 2015

Dated this the 8th day of September, 2015

JUDGMENT

Antony Dominic, J.

1.Second and third respondents in W.P(C).12954/13 are the appellants. The writ petition was filed by the second respondent herein, the brother of the first appellant, and the main prayer sought for by him was to direct the first respondent Municipality to implement Ext.P1, an order passed by the Sub Divisional Magistrate, which order was confirmed by the Sessions Court in CrI.R.P.128/97. Having heard learned counsel and being satisfied that the Ext.P1 order had attained finality, learned single Judge ordered the first respondent to implement Ext.P1. It is this judgment which is under challenge.

2.We heard the counsel for the appellants, standing counsel for the Municipality, learned counsel for the second respondent and the Government Pleader appearing for the other respondents.

3. Although various contentions were raised at the Bar, we are not inclined to interfere with the order of the learned single Judge. This is for the reason that admittedly, Ext.P1 order was issued by the Sub Divisional Magistrate and that order has attained finality. When such an order issued by a lawful authority has attained finality, it was the bounden duty of the Municipality to implement the same in its true letter and spirit. This having found to be not done, learned single Judge is perfectly justified in issuing such a direction. We decline to interfere with the order, however, direct that before any coercive action for implementation of Ext.P1 order is taken, three days' notice is to be given to the appellants.

Subject to the above, the judgment under appeal is confirmed in all other respects. Appeal is disposed of accordingly.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
P.V.ASHA, Judge.

kkb.

/True copy/

PS to Judge