

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WA.No. 1652 of 2015 () IN WP(C).19312/2014

AGAINST THE ORDER IN W.P. (C)No.19312 OF 2014 DATED 19.6.2015

APPELLANT(S)/RESPONDENT 3 & 4 :-

1. WILLIAMS,
S/O. ANTONY, RESIDING AT ALUKKAPARAMBIL HOUSE
ELAMTHURUTHY, KUTTANELLUR P.O., THRISSUR-680 014.
2. SUMAM WILLIAMS,
W/O.WILLIAMS, RESIDING AT ALUKKAPARAMBIL HOUSE
ELAMTHURUTHY, KUTTANELLUR P.O., THRISSUR-680 014.

BY ADVS.SRI.R.NIKHIL
SMT.P.K.PAMALA
SRI.P.ABDUL RAZAK

RESPONDENT(S)/PETITIONER & RESPONDENTS 1 & 2 :-

1. GOPALAKRISHNAN
AGED ABOUT 42 YEARS, S/O. AYYAPPAN
RESIDING AT MENAKATH HOUSE, ELAMTHURUTHY
KUTTANELLUR P.O., THRISSUR-680 014.
2. STATE OF KERALA
REPRESENTED BY THE SECRETARY
DEPARTMENT OF LOCAL SELF GOVERNMENT, 5TH FLOOR
SECRETARIAT ANNEX, THIRUVANANTHAPURAM-695 001.
3. THE SECRETARY
PUTHUR GRAMA PANCHAYATH, PUTHUR, THRISSUR-680 014.

R1 BY ADV. SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND
R3 BY ADV. SRI.C.A.CHACKO
R2 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No.1652 of 2015

Dated this the 30th day of July 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the appellants, the learned counsel appearing for the first respondent/writ petitioner, the learned counsel appearing for the Panchayat and the learned Government Pleader.

2. This writ appeal has been filed against the interim order dated 19.6.2015 passed in W.P.(C) No.19312 of 2014. The writ petition was filed by the first respondent seeking for the following reliefs :-

- “(i) Declare that R.62 of Kerala Panchayat Building Rules of 2011 is not authorizing any citizen to commit a fraud on statute and Exhibit.P2 permit, which had been acquired by the 3rd and 4th respondents by artificial division of the property, is a fraud on the statute and hence liable to be quashed.
- (ii) Call for the records leading to the issuance of Exhibit P2 and P9 and quash the same by way of issuance of a Writ of Certiorari.”

The petitioner had challenged Ext.P2, the building permit and Ext.P9 order issued by the Panchayat with regard to the action

taken pursuant to the order of this Court in W.P.(C) No.7385 of 2014.

3. The learned Single Judge, as per the impugned order on 19.6.2015, directed the Panchayat to adhere to Ext.P10, which was issued on 30.7.2014. In Ext.P10, the Panchayat has informed the writ petitioner that further proceedings cannot be initiated till final decision of this Court in W.P.(C) No.19312 of 2014.

4. It is submitted by the learned counsel appearing for the appellants as well as the learned counsel appearing for the Panchayat that the Panchayat has already taken a decision on 11.6.2015 in compliance of the order passed by this Court on 3.4.2014 in W.P.(C) No.7385 of 2014. However, the said decision could not be brought on record before the learned Single Judge and hence, the learned Single Judge passed the impugned order on 19.6.2015, directing the Panchayat to adhere to Ext.P10.

5. Under such circumstances, we are of the view that since the writ petition itself is pending before the learned Single Judge, it is open for both the appellants and the

W.A. No.1652 of 2015

-: 3 :-

Panchayat to bring the order on record and seek appropriate modification of the interim order or to seek disposal of the writ petition.

With the above observation, this writ appeal is disposed of .

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
A.M. SHAFFIQUE
JUDGE**

//TRUE COPY//

P.A. TO JUDGE

Jvt