

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 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WA.No. 2030 of 2015 () IN WP(C).29108/2014

**AGAINST THE ORDER/JUDGMENT IN WP(C) 29108/2014 of HIGH COURT OF KERALA
DATED 17-07-2015**

APPELLANT(S)/PETITIONER:

**SAROJA RENGAN AGED 61 YEARS
W/O. RENGAN, SHUNMUGHA, KATTIL VEEDU
TC 14/2225, ORUVATHILKOTTAH, ANAYARA P.O.
THIRUVANANTHAPURAM**

**BY ADVS.SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.ASWIN.P.JOHN**

RESPONDENTS 1 TO 3 AND ADDITIONAL RESPONDENTS 4 AND 5:

- 1. STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
PUBLIC WORKS DEPARTMENT, GOVERNMENT OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE THIRUVANANTHAPURAM DEVELOPMENT AUTHORITY (TRIDA)
REPRESENTED BY ITS SECRETARY, JATA MANSION
VAZHUTHACAUD, SASTHAMANGALAM P.O.
THIRUVANANTHAPURAM-695 001.**
- 3. SRI.RAJAGOPALAN NAIR
PROPRIETOR, INTERNATIONAL ELECTRONIC
THAKARAPARAMBU ROAD, THIRUVANANTHAPURAM, PRESIDENT
KERALA VYAPARI VYAVASAYI SAMATHI
THAKARAPARAMBU UNIT.**
- 4. BINDU ELECTRONICS
THAKARAPARAMBU ROAD, THIRUVANANTHAPURAM PO-695 001**
- 5. VIJAYARAGHAVAN NAIR
ARUNA BAKERS, THAKARAPARAMBU ROAD
THIRUVANANTHAPURAM PO-695 001.**

**R2 BY ADV. SRI.K.A.JALEEL, SC., TRIDA
BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL
R4 BY SRI.SHAJIN S.HAMEED
R3 & 5 BY SRI.V.A.VINOD**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 28-09-2015, THE
COURT ON 15-10-2015 DELIVERED THE FOLLOWING:**

WA NO.2030/15

APPENDIX

APPELLANT'S EXHIBITS

ANNEXURE 1: TRUE COPY OF THE NOTICE NO.R3/247/ 2014/
TRIDA/ 4 DATED 2.7.15 SENT BY THE 2ND RESPONDENT TO THE
APPELLANT.

ANNEXURE 2: TRUE COPY OF THE LETTER DT 10.8.15
SUBMITTED BY THE APPELLANT IN REPLY TO ANNEXURE 1 NOTICE.

//True Copy//

PS to Judge

Rp

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.A. No. 2030 of 2015

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Dated this, the 15th day of October, 2015

J U D G M E N T

Shaffique, J.

This appeal is filed by the petitioner in WP(C) No.29108/2014 challenging judgment dated 17/7/2015 by which the writ petition has been dismissed. The writ petition was filed seeking for a direction to the 2nd respondent to allot shop rooms strictly following Ext.P3 guidelines in the matter relating to rehabilitation of the shop owners who were evicted from Thakaraparambu road and for other consequential reliefs.

2. The petitioner was one of the allottees of a shop room in a rehabilitation proposal prepared by the Thiruvananthapuram Development Authority (for short 'TRIDA'). Government proposed to construct fly overs through the Thakaraparambu road connecting power house road crossing the M.G. Road at Thiruvananthapuram. The persons who were conducting business in the said area had to surrender their shop rooms and therefore,

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the rehabilitation scheme was adopted. Complaint of the petitioner is that though she had surrendered a shop room having an area of 55 m² and the 3rd respondent was holding only 30 m², the 3rd respondent was allotted an area of 24.91 m² and the petitioner, 22.39 m². Petitioner contends that as per the original proposal prepared by TRIDA, she was entitled to get shop room No.7 having an area of 23.34 m² and the 3rd respondent shop room No.6 with an area of 18.79 m². This action of the 2nd respondent, according to the petitioner, was arbitrary and unsustainable.

3. Statement was filed by the standing counsel on behalf of TRIDA *inter alia* stating that 18 traders were to be rehabilitated in the rehabilitation block and 16 traders have given in writing their consent to occupy the allotted shops. The petitioner and another agency have not submitted any objection to the allotted shop so far and, except the petitioner, all other traders accepted the allotment list finalised by TRIDA. It is further stated that the frontage width and nature of shop room held by the traders in the old premises were taken as a criteria for allotment. Petitioner's shop was having only a frontage width of 1.80 metres. The shop

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room allotted to the petitioner is having a front width of 2.30 metres. The front width of shop room of 3rd respondent was 4 metres whereas he was allotted a shop room having a front width of 3.01 metres. Similarly, the frontage of each shop room was taken as the criteria and a reasonable approach had been taken by the 2nd respondent and all of the allottees have accepted the same.

4. The learned Single Judge after considering the matter in detail observed that almost all the shop owners had consented to the allotment except the petitioner and she always claimed allotment of shop No.7, which is now allotted to the additional 5th respondent. Petitioner was allotted the shop room having 22.39 m² taking into account the frontage she originally had in the earlier building. The materials on record clearly indicate that respondents 3 and 5, who were other allottees, had better frontage than that of the petitioner's shop. Having regard to the aforesaid finding of fact and after perusal of the records, the learned Single Judge observed that the earlier shop room of the petitioner comprised of two levels inside the same room and the frontage of the existing shop room is more than what the

petitioner earlier had, and in the said circumstances, there is no arbitrariness in the action of the 2nd respondent.

5. Heard the learned counsel for the appellant, learned Special Government Pleader appearing for the State and its authorities and learned standing counsel appearing on behalf of the 2nd respondent.

6. Learned counsel for the appellant submits that there is gross discrimination in the matter relating to the allotment of space to the petitioner. On a perusal of the judgment of the learned Single Judge, it could be seen that the entire files relating to the allotment had been verified and it was found that the allotment of space was based on certain criteria and one important criteria was regarding the frontage area in the earlier premises of each of the allottees. This apparently is a valid criteria adopted, as the frontage of the shop rooms is definitely an important aspect to be looked into which will give access to the shop rooms for their customers. That apart, the finding is that the petitioner was holding an area of 55 m² in the earlier premises at two levels inside the same room. This is also a factual aspect which requires to be considered by the competent authorities

while allotting the shop rooms.

Under such circumstances, we do not think that any discrimination had been meted out against the appellant in regard to allotment of the shop rooms. The learned Single Judge having gone through the entire factual aspects in detail and has arrived at a specific finding, we do not think that in exercise of appellate jurisdiction, any grounds are made out by the appellant to enable us to exercise the appellate jurisdiction in order to set aside the aforesaid judgment. There being no merits in the appeal, the same is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

P.S to Judge