

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WA.No. 1500 of 2014 IN WP(C).21789/2014

AGAINST THE JUDGMENT IN WP(C) 21789/2014 DATED 29-08-2014

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APPELLANT/2ND RESPONDENT :

JACOB K.T. AGED 37 YEARS
S/O.C.M.THOMAS, RESIDING AT KANJIRAMKALAYIL
NAVODAYA JUNCTION, ETTUMANOOR P.O., KOTTAYAM
PIN - 686 631.

BY ADVS.SRI.RAJU JOSEPH (SR.)
SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN

RESPONDENTS/1ST RESPONDENT AND PETITIONER :

1. BADAR RAWTHER, AGED 64 YEARS
S/O.A.MEERAPILLA RAWTHER, NEDUVELIL HOUSE
ATHIRAMPUZHA P.O., KOTTAYAM, PIN - 686 562.
2. THE DEPUTY SUPERINTENDENT OF POLICE
KOTTAYAM, PIN - 686 001.

R1 BY ADV.SRI.P.K.IBRAHIM
R2 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 20-10-2015,
ALONG WITH W.A. No.1508/2014, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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

W.A. No. 1500 of 2014
and
W.A. No. 1508 of 2014

Dated this the 20th day of October, 2015

J U D G M E N T

Shaffique, J.

These writ appeals have been filed by the petitioners in WP(C).No.18131 of 2014 and second respondent in WP(C). No.21789 of 2014 aggrieved by the common judgment dated 29.8.2014. In fact the writ petitions were filed seeking for a direction to the official respondents to take steps to stop functioning of the Madrasa and mosque in building No.385 in Ward No.VI of of Athirampuzha Grama Panchayat and prohibit the usage of loudspeakers for performing the religious prayers.

2. WP(C).No.21789 of 2014 was filed by one Badar Rawther being the President of Ettumanoor Athirampuzha Muslim Jamath Committee for consideration of Ext.P1 application submitted by them for using two mikes which they are using for religious prayers for 5 times daily. By a common judgment the learned Single Judge issued direction to the

Deputy Superintendent of Police to consider the application submitted by the writ petitioner in W.P(C). No.21789 of 2014 within two weeks after affording an opportunity to the appellants for hearing. It was also observed that before granting any permission, the opinion of Pollution Control Board shall be obtained by the Deputy Superintendent of Police. Further learned Single Judge observed that if no permission is granted, the Deputy Superintendent of Police shall take necessary action to remove the loudspeaker that is installed in the premises.

3. Learned counsel for the appellant in W.A. No.1508 of 2014 has filed I.A. No.1388 of 2015 producing an order passed by the District Collector dated 4.4.2015 directing that no religious activity shall be conducted in building No.385 in Ward No.VI of Athirampuzha Grama Panchayat. It is observed that building is being used in violation of Rule 8 of the Kerala Panchayat Building Rules and also without obtaining the permission as prescribed in paragraph 23 of the Government Order No.P-217/2005/Home dated 25.7.2005 for religious purposes.

4. Having regard to the aforesaid order passed by the

District Collector, we do not think any further direction is required to be issued in the present Appeals.

5. Learned counsel for the appellant would however submits that directions are to be issued to enforce the order passed by the District Collector, for which the appellants have filed Annexure-A6 before the District Collector. Despite the order passed by the District Collector, if any person conducts religious activities in the premises, it is for the District Collector to intervene in the matter and take appropriate measures. There is no reason why a separate order is required to be issued. Recording the above submissions we dispose both the writ appeals.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M.SHAFIQUE,
JUDGE

sou.

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P.A. To Judge