

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WA.No. 2392 of 2015 IN WP(C).21703/2015

AGAINST THE ORDER IN WP(C) 21703/2015 DATED 17-07-2015

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APPELLANT/2ND RESPONDENT :

SUDEEP MATHEW
S/O.MATHEW, TVS BUILDING, PERISSERY P.O.
PULIYOOR VILLAGE, CHENGANNOOR
ALAPPUZHA DISTRICT-689 121.

BY ADVS.SRI.SAIGI JACOB PALATTY
SRI.A.C.DEVY

RESPONDENTS/RESPONDENTS :

1. VARGHESE M GEORGE
S/O.LATE VARGHESE, MELETHIL HOUSE, ADOOR VILLAGE
ADOOR P.O., PATHANAMTHITTA DISTRICT-691 523.
2. THE SECRETARY
CHANGANNOOR MUNICIPALITY, CHEGNANNOOR P.O.
ALAPPUZHA DISTRICT-689 121.

R1 BY ADV. SRI.K.K.SETHUKUMAR
R2 BY SRI.S.HARIKRISHNAN,SC,CHENGANNUR MUNICIPALITY

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 20-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No. 2392 OF 2015

Dated this the 20th day of November, 2015

JUDGMENT

Shaffique, J.

The second petitioner in W.P.(C) No. 21703 of 2015 challenges the judgment dated 17.07.2015 by which the writ petition filed by the 1st respondent herein was disposed of directing the Municipality to consider Exts.P4 and P6 representations after hearing the affected parties.

2. The main contention urged by the appellant was that though he was a party to the proceedings, the writ petition was disposed of without notice. According to him, he is a tenant entitled to continue in occupation of the premises and that no objection from the owner is not required for renewal of the licence.

3. We have issued an interim order on 04.11.2015 staying the operation of the judgment.

Counter affidavit has been filed by the 1st respondent by which he had produced Exts.R1(a) & R1(c) to show that even before staying the proceedings, the Municipality, after notice to the appellant, has rejected his application for renewal of licence. By Ext.R1(c) the appellant was also directed to stop functioning of the business being conducted in the premises in question.

4. Though it might be correct to contend that the appellant was not heard by the learned Single Judge, since the direction was only for dismissal of Exts.P4 & P5 and that too after hearing the 2nd respondent/appellant herein. We do not think that the learned Single Judge has committed any error for interference in the appellate stage. That apart, the Municipality in pursuance of the judgment has already passed orders. If the appellant is aggrieved by the said order, he is entitled to challenge the same in appropriate proceedings.

We, therefore, dismiss the appeal reserving liberty to the appellant to challenge the proceedings of the Municipality as per the prescribed procedure. In the mean time no coercive steps shall be taken against the appellant by the Municipality for a period of one month.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**