

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 823 of 2014 (C)

PETITIONER:

**LUKE STEPHEN, S/O. STEPHEN,
AGED 53, PULIMOOTIL HOUSE,
THODUPUZHA-685584.**

**BY ADVS.SRI.K.R.SUNIL
SMT.P.K.PAMALA**

RESPONDENT(S):

- 1. THE THODUPUZHA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THODUPUZHA-685584.**
- 2. THE REGIONAL TRANSPORT OFFICER,
THE REGIONAL TRANSPORT OFFICE,
THODUPUZHA-685584.**
- 3. THE CIRCLE INSPECTOR OF POLICE,
TRAFFIC POLICE STATION,
THODUPUZHA-685584.**
- 4. THE SUB INSPECTOR OF POLICE,
TRAFFIC CONTROL ROOM,
THODUPUZHA-685584.**

**R1 BY ADV. SRI.P.K.SOYUZ, SC
R2 TO R4 BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1- THE PHOTOGRAPH EVIDENCING OBSTRUCTIONS CREATED BY THE STREET VENDORS BESIDES THE FOOTPATH OF THE THODUPUZZHA, MOOLAMATTOM AND ERATTUPETTA ROAD.

EXHIBIT P2- THE PHOTOGRAPH EVIDENCING OBSTRUCTIONS AND NUISANCE CREATED BY THE STREET VENDORS BESIDES THE FOOTPATH OF THE THODUPUZZHA, MOOLAMATTOM AND ERATTUPETTA ROAD.

EXHIBIT P3- THE TRUE COPY OF THE LETTER SEND BY THE 1ST RESPONDENT.

EXHIBITANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.823 of 2014

Dated this the 16th day of July, 2015.

JUDGMENT

The petitioner is seeking a positive direction to the respondent municipality to prohibit the street vendors from causing obstruction to the ingress and agrees to the petitioner's shopping complex.

2. The petitioner is the owner of a commercial complex situated at the heart of Thodupuzha town having Five Floors consisting of several business establishments. The petitioner alleges that all the shops in the commercial complex are having customers. By the side of the shopping complex, there is a parking space, there is a public foot path. In front of the shopping complex lies Thodupuzha, Erattupetta and Moolamattom Public Road. Due to the cart street vendors, the pedestrians, the vehicular traffic and the customers of the petitioners are much affected and hence submitted complaint before the first respondent. The first respondent even though

sent Ext.P3, the street vendors are continuing there. Being aggrieved by the hostile attitude of the responsible officers, this writ petition is filed seeking appropriate orders to remove the street vendors. It is with this background, the petitioner has come up before this Court.

3. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent municipality.

4. The learned counsel for the petitioner points out that Section 117 of the MV Act and Section 470 of the Municipalities Act prohibits persons to carry out their business in the public places creating obstructions and nuisances to the general public. Therefore, it is pointed out that the respondent municipality is not justified in removing or prohibiting the street vendors from carrying out their business either in the footpath or on the side of Thodupuzha, Moolamattom and Erattupetta main road. The law laid down by this Court in **Rose Lynd E.T. and another v. Lekha Alias Krishnakumar**

and others [2008 (4) KHC 184] specifically prohibits any kind of sale of articles in public streets.

5. It is crucial to note that the petitioner who is owing a shopping complex abutting the public way has every right to enter the public road to any portion of his property. Therefore, the respondent municipality is bound to remove the obstructions pointed out by the petitioner.

Therefore, the writ petition is allowed. The respondents 1 to 3 are directed to remove the obstruction and nuisance created by the street vendors as envisaged in Ext.P3 within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.