

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936**

**WP(C).No. 3023 of 2015 (C)**  
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**PETITIONER :**  
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**OFFICERS' CLUB, AGED 62 YEARS,  
TRIVANDRUM, VELLAYAMBALAM, TRIVANDRUM - 03  
REPRESENTED BY ITS PRESIDENT.**

**BY ADV. SRI.G.S.REGHUNATH**

**RESPONDENTS :**  
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- 1. STATE OF KERALA  
REPRESENTED BY ITS SECRETARY TO GOVERNMENT(REVENUE)  
SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- 2. THE DISTRICT COLLECTOR  
THIRUVANANTHAPURAM - 695 001.**
- 3. TAHSILDAR, TALUK OFFICE,  
THIRUVANANTHAPURAM - 695 001.**

**R1 TO R3 BY GOVERNMENT PLEADER SMT. SUSHEELA R. BHATT**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**bp**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER.
- EXT.P-2: TRUE COPY OF THE G.O(MS) NO.217/96/RD DATED 1.4.96.
- EXT.P-3: TRUE COPY OF THE G.O(MS) 88/2006 DATED 22.3.2006.
- EXT.P-4: TRUE COPY OF THE REPRESENTATION DATED 28.5.2006 SENT BY PETITIONER TO THE HON'BLE MINISTER FOR REVENUE.
- EXT.P-5: TRUE COPY OF THE ORDER DATED 3.8.2006 IN WPC NO.17456/2006 OF THIS HON'BLE COURT.
- EXT.P-6: TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT UNDER RULE 13A OF THE LAND CONSERVANCY ACT.
- EXT.P-7: TRUE COPY OF THE APPEAL PETITION FILED BEFORE THE 2ND RESPONDENT DATED 27.4.2012.
- EXT.P-8: TRUE COPY OF THE REPRESENTATION DATED 23.5.2012 SUBMITTED BY PETITIONER BEFORE THE HON'BLE MINISTER FOR REVENUE.
- EXT.P-9: TRUE COPY OF THE NOTICE DATED 3.5.2012 ISSUED TO THE PETITIONER BY 2ND RESPONDENT.
- EXT.P-10: TRUE COPY OF THE NOTICE DATED 4.4.2013 FROM THE 3RD RESPONDENT RECEIVED BY PETITIONER ON 9.4.2012
- EXT.P-10(A): TRUE COPY OF THE COVER CONTAINING EXHIBIT-P10.
- EXT.P-11: TRUE COPY OF THE ARGUMENT NOTE DATED 23.5.2012 SUBMITTED BY PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P-12: TRUE COPY OF THE JUDGMENT IN WPC NO.10681/2013 DATED 12.4.2013.
- EXT.P-13: TRUE COPY OF THE REPRESENTATION SUBMITTED BY PETITIONER BEFORE THE HON'BLE CHIEF MINISTER DATED 7.11.2014.
- EXT.P-14: TRUE COPY OF THE ACKNOWLEDGMENT OF RECEIPT OF EXHIBIT-P13 REPRESENTATION.

RESPONDENT(S)' ANNEXURES :

- ANNEXURE R1(A): COPY OF THE JUDGMENT DT 25/1/2002 IN O.P. NO. 26657/2001.
- ANNEXURE R1(B): COPY OF THE JUDGMENT DT 03/04/2012 IN WPC NO. 17456/2006.

//TRUE COPY//

P.A. TO JUDGE

bp



**P.R.RAMACHANDRA MENON, J.**

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**W.P.(C) No.3023 of 2015**

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**Dated this the 18<sup>th</sup> day of February, 2015**

**JUDGMENT**

The reliefs sought for in the writ petition are in the following terms.

- "A) *The a writ of mandamus or other order be issued directing the respondents 2 and 3 not to evict the petitioner from the building detailed in Ext.P10 before a final decision is taken by the Hon'ble Chief Minister on Ext-P13 representation.*
- B) *That the 1<sup>st</sup> respondent be directed to consider the prayer of petitioner in Ext.-P13 and allow them to continue the occupation of building under the control of the 1<sup>st</sup> respondent on condition to be imposed by the 1<sup>st</sup> respondent as done in other similar cases.*
- C) *That the petitioner be granted such further reliefs as are appropriate and incidental to this writ petition.*

2. The petitioner is stated as a society registered under the Travancore-Cochin Literacy Scientific and Charitable Societies Act, 1955. With intent to run a Club for recreational activities of the Officers of the Government, an application was preferred

before the Government; upon which property having an extent of 22 Cents in Sy.No.3469 along with an old building to run the Club was given on lease. Initially, the rent was fixed as Rs.4,050/- per annum, which was subsequently enhanced to Rs.4,40,000/- per annum. It is stated that, the exorbitant enhancement was sought to be challenged by filing a writ petition; whereupon the grievance of the petitioner was directed to be considered.

3. In the meanwhile, further proceedings were taken against the petitioner, initiating coercive steps. This was sought to be challenged by filing W.P.(C) No.17456 of 2006, wherein Ext.P5 interim order was passed to the effect that the directions contained the impugned order bearing G.O.(MS) No.88/2006/Revenue dated 22.03.2006 shall be implemented only prospectively, until final orders in the writ petition. It is seen that the said writ petition subsequently came to be dismissed for default on 03.04.2012 and the same was never sought to be restored.

4. Further proceedings were followed demanding vacant surrender of the premises, the petitioner having not satisfied the enhanced rent. The petitioner was given an opportunity of

hearing as evident from Ext.P9 notice dated 03.05.2012 and Ext.P10 dated 04.04.2013. The petitioner approached this Court again, by filing W.P(C) No.10681 of 2013, challenging the above proceedings. The main relief sought for was to interdict the respondents and direct them not to evict the petitioner from the premises till the petitioner exhausted their statutory remedy under Section 16 of the Land Conservancy Act. The said writ petition was disposed of as per Ext.P12 judgment dated 12.04.2013 (rendered by me); whereby the petitioner was set at liberty to pursue the statutory remedy as aforesaid, by moving the Commissioner for Land Revenue within 'two weeks'; directing the revisional authority to have the matter finalised in accordance with law. 'Status quo' was ordered to be maintained for a period of one month.

5. The case of the petitioner is that, the petitioner moved the Hon'ble Chief Minister of the State by filing Ext.P13 representation and the same has been reportedly forwarded to the District Collector vide Ext.P14. The prayer is to cause the same to be considered and finalised and to stay the eviction proceedings till such time.

6. A detailed statement has been filed on behalf of the 1<sup>st</sup> respondent, referring to the sequence of events including the Original Petition preferred by the petitioner in the year 2001 as O.P No.26657 of 2001. The course and proceedings pursued by the Government in allotting the land and building to the petitioner for conducting the Officer's Club was deprecated describing the same as 'atrocious' and directing appropriate action to be taken. A copy of the said judgment has been produced as Annexure-R1(a). The final verdict passed by this Court dismissing the writ petition No.17456 of 2006 for default (wherein Ext.P5 interim order was passed) is produced as Annexure - R1(b). It was thereafter, that the petitioner approached this Court by filing another writ petition, wherein Ext.P12 judgment was passed. Instead of making use of the opportunity given by this Court as per Ext.P12 by filing a revision petition before the Commissioner for Land Revenue, as sought to be pursued, the petitioner approached the Hon'ble Chief Minister of Kerala. It is also pointed out in paragraph 6 of the said statement that the petitioner had approached the Hon'ble Chief Minister earlier, with similar representation, wherein no interference was made and the

same was disposed of directing the concerned authority to collect the entire defaulted rent arrears and for resumption of land as per order dated 26.09.2014. It is stated that the said factual aspects have been suppressed and the petitioner has not chosen to challenge the above order dated 26.09.2014. This being the position, no interference is warranted under any circumstance, submits the learned Special Government Pleader appearing for the respondents.

7. Going by the materials on record, the present proceedings taken by the concerned respondent seeking to evict the petitioner from the premises, appear to be based on the observations made by this Court as per Annexure R1(a) verdict passed on 25.01.2002. The said observations are in the following terms:

“It is rather atrocious that a building and land belonging to the Government - people of Kerala has been leased to a club for a rent of Rs.4,050/- per year whereas Government officers are functioning in buildings taken on rent of thousands of rupees per month. It is necessary that this rent agreement effected in 1996 shall necessarily be reviewed because it is for too paltry an amount. Of course, there shall be a notice to the lessee concerned. The lessee had already submitted a detailed representation. The District Collector shall hear the petitioner and shall pass appropriate orders if necessary rescinding Ext.P2. The District Collector should also enquire as to and under what authority the

third respondent had leased out the Government property, that too for such paltry amount and shall take appropriate action against the officer concerned. Order shall be passed at any rate within 2 months from today. Until then the interim order, if any passed in this case, shall be continued.”

8. As mentioned already, the petitioner had approached this Court by filing W.P.(C) No.17456 of 2006, which was dismissed for default as per Annexure -R1(b) judgment dated 03.04.2014, which was never sought to be restored. As such, the petitioner could not have approached this Court again projecting similar grievance. Still, the matter was entertained by this Court when the petitioner sought to highlight the statutory remedy under Section 16 of the Land Conservancy Act and it was in the said circumstance, that Ext.P12 judgment was passed on 12.04.2013, relegating the petitioner to move the revisional authority, i.e., the Commissioner for Land Revenue, simultaneously intercepting coercive proceedings for a period of one month. Admittedly, the petitioner did not pursue the revisional remedy as above, and no pleading or proceeding is brought to the notice of this Court as to having exercised any such remedy. The petitioner has also not mentioned anything with regard to the representation preferred earlier

before the Hon'ble Chief Minister and as to its outcome, as pointed out by the first respondent in paragraph 6 of the statement. The petitioner had shown the temerity to file yet another representation before the Hon'ble Chief Minister vide Ext.P13 and has chosen to approach this Court for issuing a writ of mandamus to cause the same to be considered and disposed of within a reasonable time and to intercept the eviction proceedings till such time. This Court finds that the course pursued by the petitioner is nothing other than abuse of the process of Court.

9. In the said circumstance, interference is declined and the writ petition is dismissed with a cost of Rs.25,000/- to be paid to the Kerala State Conciliation and Mediation Centre; failing which it will be open to the Registrar General to issue necessary certificate to the beneficiary so as to obtain the due amount. A copy of the judgment shall be forwarded to the Director of Kerala Mediation and Conciliation Centre for information and further steps.

Sd/-

**P.R.RAMACHANDRA MENON, JUDGE**

vdv