

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 3170 of 2015 (U)

PETITIONERS:

1. J JUSTUS BANUEL,
PASTOR, CALVARY BAPTIST FOUNDATION, KOLVEL,
KARUPPAVILAI, THIRUVATTAR VILLAGE, THIRUVARAMBU DESOM,
THIRUVARAMBU P.O., KALKULAM TALUK,
KANYAKUMARI DISTRICT,
REPRESENTED BY POWER OF ATTORNEY HOLDER,
D. CHRISTUDAS, S/O. DANIEL, AGED 69 YEARS, RLRA - 53,
RADHAKRISHNAN LANE, VAZHAILA, PEROORKADA,
THIRUVANANTHAPURAM - 695 005.
2. D. CHRISTUDAS, AGED 69 YEARS,
S/O. DANIEL, RLRA-53, RADHAKRISHNAN LANE,
VAZHAILA, PEROORKADA, THIRUVANANTHAPURAM - 695 005.

BY ADVS.SMT.SREEDEVI KYLASANATH
SRI.M.JAYAKRISHNAN
SRI.ACHUTH KYLAS

RESPONDENTS:

1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURA - 695 033.

R BY SMT. SANJEETHA K.A., GOVERNMENT PLEADER
R BY SRI.P.K.MANOJKUMAR, SC

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

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT-P1-TRUE COPY OF THE 1ST PETITIONER'S POWER OF ATTORNEY IN FAVOUR OF CHRISTUDAS.

EXHIBIT-P1(a)-TRUE COPY OF THE AUTHORISATION LETTER DATED 04/05/2010.

EXHIBIT-P2-TRUE COPY OF THE PLAN ACCORDING TO WHICH THE CONSTRUCTION IS CARRIED OUT.

EXHIBIT-P3-TRUE COPY OF THE JUDGMENT IN W.P(C)26450/2014 DATED 13/10/2014.

EXHIBIT-P4-TRUE COPY OF THE APPLICATION DATED 07/10/2014 SUBMITTED BEFORE THE 2ND RESPONDENT FOR REGULARISATION OF THE CONSTRUCTION.

EXHIBIT-P4(a)-TRUE COPY OF THE RECEIPT ACKNOWLEDGING THE SUBMISSION OF EXHIBIT-P4 ISSUED BY THE 2ND RESPONDENT DATED 07/10/2014.

EXHIBIT-P4(a-1)-TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P4(a).

EXHIBIT-P5-TRUE COPY OF THE REPRESENTATION DATED 10/12/2014 SUBMITTED BEFORE THE 2ND RESPONDENT BY THE 2ND PETITIONER.

EXHIBIT-P6-TRUE COPY OF THE ORDER NO. 492/A2/6250/2014 DATED 15/12/2014.

EXHIBIT-P6(a)-TRUE ENGLISH TRANSLATION OF EXHIBIT-P6.

EXHIBIT-P7-TRUE COPY OF THE OBJECTION DATED 13/01/2015.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 3170 of 2015 (U)

Dated this the 2nd day of February, 2015.

JUDGMENT

Heard the learned counsel for the petitioners, learned Standing Counsel for the respondent Corporation and the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the first petitioner is the owner of certain property in Survey No.159/28 of Block No.23 in Peroorkada Village, Thiruvananthapuram. The second petitioner, apart from being the power of attorney holder of the first petitioner, is also residing in the said property, which is meant for the benefit of the Calvary Baptist Foundation.

3. Since the part of the property is being used for prayer purposes for many years, the petitioners, having renovated the building, submitted Ext.P4 application for regularisation of the

construction. When the second respondent issued Ext.P6, which is in the nature of a show cause, after submitting Ext.P7 explanation, the petitioners have approached this Court apprehending that before Ext.P7 representation could be considered, the second respondent may initiate precipitous steps, such as demolition of the property.

4. The learned Standing Counsel for the second respondent has submitted that Ext.P6 is only in the nature of a provisional order directing the petitioner to show cause why further action should not be initiated in terms of Section 406(1) and (2) of the Kerala Municipalities Act, 1994. He has further submitted that unless and until the respondent Corporation considers Ext.P7 representation of the petitioners, the authorities will not take any coercive steps.

Recording the submission of the learned Standing Counsel for the respondent Corporation, this Court disposes of the writ petition with a direction to the respondent Corporation to consider the petitioners' Ext.P7 explanation, which is said to

have been given in the face of Ext.P6 order of the Corporation, after affording an opportunity of hearing to the petitioners, and pass appropriate orders thereon, as expeditiously as possible. It is made clear that until a decision is taken on Ext.P7, status quo existing as on today shall be maintained concerning the property in question.

sd/- DAMA SESHADRI NAIDU, JUDGE.