

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 4087 of 2015 (I)

PETITIONERS:

1. PRASANNA KUMARI,
AGED 62 YEARS, W/O.K.SOMASEKHARAN NAIR, PARAMESWARAM,
MUTHUKATTU KARA, NOORANADU P.O., ALAPPUZHA DISTRICT.
2. SOMASEKHARAN NAIR, AGED 73 YEARS, S/O.N.KRISHNA PILLAI,
PARAMESWARAM, MUTHUKATTU KARA, NOORANADU P.O.,
ALAPPUZHA DISTRICT.

BY ADVS.SRI.M.V.THAMBAN,
SRI.R.REJI,
SMT.THARA THAMBAN,
SRI.B.BIPIN.

RESPONDENTS:

1. THE SUPERINTENDENT OF POLICE,
ALAPPUZHA DISTRICT, PIN-688 001.
2. THE SUB INSPECTOR OF POLICE, NOORANADU POLICE STATION,
NOORANADU P.O., ALAPPUZHA DISTRICT, PIN-690 504.
3. THE REGIONAL TRANSPORT OFFICER,
REGIONAL TRANSPORT OFFICE, ALAPPUZHA, ALAPPUZHA DISTRICT,
PIN-688 001.
4. THE JOINT REGIONAL TRANSPORT OFFICER,
SUB REGIONAL TRANSPORT OFFICE, MAVELIKARA,
ALAPPUZHA DISTRICT, PIN-690 101.
5. PALAMEL GRAMA PANCHAYAT, PALAMEL P.O., MAVELIKARA,
ALAPPUZHA DISTRICT, REPRESENTED BY ITS SECRETARY, PIN-690 101.
6. THE SECRETARY,
PALAMEL GRAMA PANCHAYAT, PALAMEL P.O., MAVELIKARA,
ALAPPUZHA DISTRICT, PIN-690 101.
7. SRI.VISWANATHAPILLAI, AGED 50 YEARS, CHENGATTU VEEDU,
KOTTAKKATTUSERY WARD, THAMARAKULAM, LEPROSY SANITORIUM P.O.,
NOORANADU, ALAPPUZHA DISTRICT.
PIN-690 504.
8. JYOTHINDRAN, AGED 55 YEARS, KAILASAM, THATTAMMUNNA,
LEPROSY SANITORIUM P.O., NOORANADU,
ALAPPUZHA DISTRICT.

R1 TO R4 BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN,
R5 & R6 BY ADVS.SRI.R.PADMAKUMAR,
R7 & R8 BY ADV. SMT.K.N.BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE TAX RECEIPT IN RESPECT OF PROPERTY LYING IN SURVEY NO.396/2-2 OF THE PALAMEL VILLAGE FOR THE YEAR 2013- 2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P1 (A) : TRUE COPY OF THE TAX RECEIPT IN RESPECT OF PROPERTY LYING IN SURVEY NO.396/2-3 OF THE PALAMEL VILLAGE FOR THE YEAR 2013-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P1 (B) : TRUE COPY OF THE TAX RECEIPT IN RESPECT OF PROPERTY LYING IN SURVEY NO.396/2 OF THE PALAMEL VILLAGE FOR THE YEAR 2013-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P1 (C) : TRUE COPY OF THE TAX RECEIPT IN RESPECT OF PROPERTY LYING IN SURVEY NO.396/2-5 OF THE PALAMEL VILLAGE FOR THE YEAR 2013-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P1 (D) : TRUE COPY OF THE TAX RECEIPT IN RESPECT OF PROPERTY LYING IN SURVEY NO.396/2-4 OF THE PALAMEL VILLAGE FOR THE YEAR 2013-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P2: TRUE COPY OF THE POWER OF ATTORNEY DATED 16-06-2010 EXECUTED BY ONE OF HIS DAUGHTERS NAMELY SMT. SWAPNA IN FAVOUR OF THE 2ND PETITIONER.
- EXHIBIT P3: TRUE COPY OF THE COMPLAINT FILED BY THE 2ND PETITIONER BEFORE THE 3RD RESPONDENT DATED 08-12-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P3 (A) : TRUE COPY OF THE COMPLAINT FILED BY THE 2ND PETITIONER BEFORE THE 4TH RESPONDENT DATED 08-12-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P3 (B) : TRUE COPY OF THE COMPLAINT FILED BY THE 2ND PETITIONER BEFORE THE ASSISTANT EXECUTIVE ENGINEER, PWD DATED 08-12-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P3 (B) : TRUE COPY OF THE COMPLAINT FILED BY THE 2ND PETITIONER BEFORE THE ASSISTANT EXECUTIVE ENGINEER, PWD DATED 08-12-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P3 (D) : TRUE COPY OF THE COMPLAINT FILED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT DATED 09-12-2014 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P3 (E) : TRUE COPY OF THE COMPLAINT FILED BY THE 2ND PETITIONER BEFORE THE 6TH RESPONDENT DATED 08-12-2014 ALONG WITH ITS ENGLISH TRANSLATION.

EXHIBIT P4: TRUE COPY OF THE REPLY DATED 26-12-2014 OF THE PUBLIC
INFORMATION OFFICER, REGIONAL TRANSPORT OFFICE ALONG WITH ITS
ENGLISH TRANSLATION.

EXHIBIT P5: TRUE COPY OF THE REPLY DATED 18-11-2014 BY THE 6TH RESPONDENT
ALONG WITH ENGLISH TRANSLATION.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

P.A. TO JUDGE.

Prv/2.

W.P. (C) .NO.

APPENDIX

PETITIONER'S EXHIBITS:

//TRUE COPY//

P.A. TO JUDGE.

Prv/2.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 4087 of 2015

Dated this the 13th day of July, 2015

J U D G M E N T

The petitioners are aggrieved by the unauthorized parking of vehicles in front of the petitioners' shop.

2. The petitioners are husband and wife. The 1st petitioner, along with her children, is the owner of the property inclusive of a two storied building lying in Sy.Nos.396/2-2, 296/2-3, 396/2, 396/2-5 & 396/2-4 of Palamel Village, Mavelikkara Taluk. They are aggrieved by the illegal and unauthorized parking of autorikshaws by respondents 7 and 8 along with their henchmen, in front of the building, which, according to the petitioners, ultimately affects the ingress and egress of the petitioners, their tenants and their customers to the building. The petitioners submitted Ext.P3 series of complaints before respondents 1 to 6. They point out that as per Exts.P4 & P5, it is evident that in front of the

..2..

property of the petitioners, there is no authorized parking stand. They further allege that respondents 7 and 8 are taking law into their hands and forcefully park their three wheelers in front of the shop room of the petitioners. Their grievance is that despite repeated complaints, respondents 1 to 6 have not taken any action so far. Therefore, they approached this Court seeking a direction to respondents 1 to 6 to take effective steps to prevent unauthorized parking by respondents 7 and 8.

3. Though notice has been served on the respondents, they have not entered appearance.

4. Heard the learned counsel for the petitioners and the learned Government Pleader in the matter.

5. The learned counsel for the petitioners, relying on Section 227 of the Kerala Panchayath Raj Act, submitted that unauthorized parking of autorikshaws in the space between road and the shop causing inconvenience is not at all permissible unless the same is notified as a parking stand. It was pointed out that the

..3..

space is not specified as parking stand and respondents 7 and 8 have no authority to park their vehicle in front of the petitioners' building. The learned counsel for the petitioners also invited my attention to a decision of this Court in **Ummer Farookh v. Station House Officer & Others** [2014 (1) KHC 317], wherein it was held that the space between the road and the shop cannot be used by anybody as a parking stand unless the same is notified as a parking stand.

6. The learned counsel for the petitioners pointed out that the petitioners made a request to the party respondents to confine the parking of their vehicles to their auto stand. However, they have taken the adamant stand that they would park their three wheelers in front of the building of the petitioners. Section 117 of the Motor Vehicles Act, 1988 provides that the State Government or any authority authorized on this behalf by the State Government, may determine places, at which motor vehicles may stand either indefinitely or for a

..4..

specified period of time in consultation with the local authority. Therefore, taking into account all these aspects, this Court is of the view that the petitioners are entitled to get the relief as prayed for.

In the result, the writ petition is disposed of directing respondents 1 to 6 to take effective steps against the unauthorized parking of vehicles in front of the petitioners' building comprised in Sy.Nos.396/2-2, 396/2-3, 396/2, 396/2-5 & 396/2-4 of Palamel Village, Mavelikkara Taluk, within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-