

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 5192 of 2015 (Y)

PETITIONER :

**P.GOPALAKRISHNAN NAIR,
S/O. PADMANABHA PILLAI, AGED 76 YEARS,
PUSHPAMANGALAM, THAKAZHY P.O.,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.B.S.SIVAJI

RESPONDENT(S):

- 1. TRAVANCORE DEVASWOM BOARD,
REP: BY ITS SECRETARY, DEVASWOM BOARD JUNCTION,
THIRUVANANTHAPURAM-695 001.**
- 2. THE EXECUTIVE ENGINEER (WORKS),
TRAVANCORE DEVASWOM BOARD, MAVELIKKARA-690 101.**
- 3. THE ASSISTANT COMMISSIONER,
AMBALAPUZHA GROUP, TRAVANCORE DEVASWOM BOARD,
AMBALAPPUZHA P.O., ALAPPUZHA DISTRICT- 688 561.**
- 4. MANAGER/SUB GROUP OFFICER,
THAKAZHY DEVASWOM, TRAVANCORE DEVASWOM BOARD,
THAKAZHY P.O., ALAPPUZHA DISTRICT-688 562.**

BY SRI. D SREEKUMAR, SC, TDB

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 5192 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE RECEIPT FOR THE RENT PAID BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.**

EXHIBIT P2: A TRUE COPY OF THE REQUEST DATED 10.12.1993.

**EXHIBIT P3: A TRUE COPY OF THE REPORT DATED 16.03.1994 PREPARED BY THE
ASST. ENGINEER.**

**EXHIBIT P4: A TRUE COPY OF THE LETTER DATED 2.4.1994 ISSUED BY THE 2ND
RESPONDENT.**

**EXHIBIT P5: A TRUE COPY OF THE NOTICE ISSUED BY THE 4TH RESPONDENT
DATED 23.01.2015.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 5192 of 2015

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Dated, this the 25th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- "i) To call for the records leading to Ext. P5 and set aside the same by issuing a writ of certiorari, order or direction;
- ii) To issue a writ of mandamus, order or direction directing the respondents 1 to 3 to executed and construct a 'lean to room' as specified in Ext. P3 report;
- iii) To declare that the 4th respondent have no authority to issue Ext. P5 notice.
- iv) Any other appropriate order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. The learned counsel for the petitioner points out that the petitioner is conducting a tea shop in room No. 3 allotted to the petitioner by the Devaswom Board. As a matter of fact, the shop room was constructed by the second respondent nearly 35 years

back, on the basis of an auction and the petitioner started occupying the same, subject to the terms stipulated by the Board. The said shop room is having an area of 300 sq.m. But in the course of time, the petitioner wanted to construct a lean to the room and the petitioner expressed willingness to satisfy the additional security or the rent if at all any for such facility as well. A sketch was prepared by the Assistant Engineer and according to the petitioner, based on the permission given to the petitioner, he effected the construction and is doing the business accordingly. But at the instance of somebody, who is not in good terms with the petitioner, the Devaswom Board has taken a decision to evict the petitioner, stating that it is an unauthorised occupation and issued Ext. P5 notice asking the petitioner to surrender the premises, which made the petitioner to approach this Court by filing the present writ petition.

3. Heard the learned standing counsel for the respondents as well, who submits that the version of the petitioner is not fully correct. It is stated that Devaswom Board does not have any objection in continuing to occupy the premises allotted to him. But the petitioner has virtually constructed a kitchen behind the shop room, which is causing much nuisance to the general public, who

are making use of the auditorium and hall situated in the above building. This made the respondents to issue Ext. P5 notice. It is stated that if the petitioner files an exhaustive representation, projecting the grievance, the same shall be caused to be considered within the shortest possible time.

4. In the said circumstances, the writ petition is disposed of, setting the petitioner at liberty to file an exhaustive representation before the concerned respondent within two weeks from the date of receipt of a copy of this judgment; upon which the same shall be considered and appropriate orders shall be passed, after giving an opportunity of hearing to the petitioner, at the earliest, at any rate within one month thereafter. 'Status quo' shall be maintained till such time.

The petitioner shall produce a copy of this judgment along with copy of the writ petition before the concerned respondent for further steps.

Sd/-

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

kmd