

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 5456 of 2015 (F)

PETITIONER:

K.H.KASIM, AGED 46 YEARS,
S/O.HASAN, KUZHI MANDAPATHIL HOUSE, PACHALAM.

BY ADVS.SRI.K.C.CHARLES
SRI.M.POLY MATHAI
SRI.VIMAL K.CHARLES
SMT.A.T.RENJU

RESPONDENTS:

1. CORPORATION OF COCHIN,
REPRESENTED BY ITS SECRETARY, COCHIN 11.
2. COUNCIL OF COCHIN CORPORATION, KOCHI 11,
REP BY ITS CHAIR PERSON.

R1 BY ADV. SRI.K.ANAND, SC, COCHIN CORPORATION,
R BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-02-2015, ALONG WITH W.P.(C) NOS. 5487, 5484, 5488 &
5497 OF 2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 5456 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS :

P1:TRUE COPY OF THE ORDER DATED 05.02.2015 PASSED BY THE HEALTH OFFICER OF THE COCHIN CORPORATION.

P1(a):A TRUE COPY OF ENGLISH TRANSLATION OF EXHIBIT P1.

P2:A TRUE COPY OF THE APPEAL MEMORANDUM FILED BEFORE THE COCHIN CORPORATION.

P3:TRUE COPY OF THE POSTAL RECEIPT.

P4:A TRUE COPY OF THE AFFIDAVIT AND STAY PETITION FILED BY THE PETITIONER ALONG WITH EXT P2.

P5:A TRUE COPY OF RECEIPT DATED 18.02.2015 ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT EVIDENCING FILING OF EXHIBITS P2 AND P4.

P5(a):A TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P5.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

Rv

DAMA SESHADRI NAIDU, J.

W.P. (C) Nos. 5456, 5484, 5487, 5488
& 5497 of 2015

Dated this the 20th day of February, 2015.

JUDGMENT

All the petitioners have a common grievance that despite pendency of statutory appeals before the second respondent, the respondent Corporation has issued Ext.P1 notice to stop their businesses within 15 days and remove the 'bunk shops'. Since all the petitioners are similarly placed having a common grievance against the same set of respondents, this Court felt it desirable to dispose of all the writ petitions through a common judgment.

2. The petitioners, having put up 'bunk shops' on the land, which, according to them, belongs to neither the Government nor the respondent Corporation, applied for licence to carry on the business in the said bunk shops. Instead of granting licence, or in the alternative, regularising the said unauthorised bunk shops under proviso to Section

406(1) of the Kerala Municipality Act, 1994 ('the Act' for brevity), the first respondent has issued Ext.P1 notice dated 05.02.2015. Aggrieved thereby, the petitioners have filed statutory appeals through Ext.P2 under Section 509 of the Act. Ventilating their grievance that before their statutory appeals could be considered on merits, the first respondent Corporation has been making hectic efforts in furtherance of Ext.P1 notice to evict the petitioners from the respective 'bunk shops', they have approached this Court.

3. Without getting into the factual controversy, this Court is of the opinion that it is only in the interest of justice, if the second respondent disposes of the statutory appeals filed by the petitioners before the respondent Corporation could take any precipitous steps in furtherance of Ext.P1 notice.

In the facts and circumstances, having regard to the respective submissions of the learned Counsel for the petitioners and the learned Standing Counsel for the respondent Corporation, this Court, without adverting to the merits of the

matter, disposes of the writ petitions with a direction to the second respondent to consider the petitioners' statutory appeals in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. It is made clear that once the appeals are disposed of, both the parties—the petitioners and the respondent Corporation – are at liberty to take necessary consequential or remedial steps based on the result of the appeals.

sd/- DAMA SESHADRI NAIDU, JUDGE.

W.P.(C). No.5456, 5484, 5487, 5488
& 5497 of 2015

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