

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 6119 of 2015 (L)

PETITIONERS:

1. M/S. HOTEL KAIRALI, SHORNUR ROAD,
PALAKKAD REP. BY ITS MANAGING PARTNER
K. RAJENDRAN
2. K.RAJENDRAN, 39/730, HARRIKKARA STREET,
PALAKKAD, PROPRIETOR,
HOTEL KAIRALI TOWERS, PALAKKAD.
3. V.MAHESH KUMAR, VENKARADRI, HARRIKKARA
STREET, PALAKKAD, PROPRIETOR, HOTEL AMBADI,
PALAKKAD.
4. P.AJAY KUMAR, MANAGING PARTNER,
M/S.KALYAN TOURIST HOME, PALAKKAD.
5. C.P.DHANESH, MANAGING DIRECTOR,
M/S.MUTHUVELAN SONS (P) LTD.,
HOTEL INDIRAPRASTHA, PALAKKAD.
6. ARUN RAJ, MANAGING DIRECTOR,
M/S.SREEVALSAM HOTELS AND RESORTS
PRIVATE LTD., HOTEL SREEVALSAM RESIDENCY,
OLAVACODE, PALAKKAD.
7. K.NARAYANANKUTTY, DIRECTOR, M/S.HOTER
VEEYEMMAR INTERNATIONAL PVT. TD.,
SUDEVAN ROAD, SULTHANPET, PALAKKAD-1.
8. V.M.RADHAKRISHNAN, PROPRIETOR,
HOTEL SOORYA RESIDENCY, ROBINSON ROAD,
PALAKKAD.
9. V.SUDEVAN, MANAGING DIRECTOR,
HOTEL FORT PALACE, WEST FORT, PALAKKAD.
10. NITHIN.R., MANAGING DIRECTOR, SOORYA
CONTINENTAL, SOORYA JUNCTION,
OLAVACODE, PALAKKAD.
11. K.C.KRISHNAN, MANAGING DIRECTOR,
HOTEL SREECHAKRA INTERNATIONAL,
PREMA NIVAS, SIVAJI ROAD, KARNAKI
NAGAR, PALAKKAD.

12. SATHEESH KUMAR.P., PROPRIETOR, HOTEL
CHANAKYA, ARUMUGHAN GARDENS,
COIMBATORE ROAD, CHANDRA NAGAR,
PALAKKAD - 678 007.

13. K.RAJENDRAN, 39/730, HARIKKARA STREET,
PALAKKAD, PROPRIETOR, HOTEL REVATHY,
PALAKKAD.

BY ADVS.SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.V.RENJITH KUMAR
SRI.ASWIN.P.JOHN

RESPONDENTS:

1. STATE OF KERALA REP. BY ITS SECRETARY
FOR TAXES DEPARTMENT, GOVERNMENT OF
KERALA, SECRETARIAT, TRIVANDRUM-695 001.
2. COMMISSIONER OF EXCISE, TRIVANDRUM-695 001.
3. DEPUTY EXCISE COMMISSIONER, PALAKKAD-678 001.
4. DISTRICT COLLECTOR, PALAKKAD - 678 001.
5. DISTRICT SUPERINTENDENT OF POLICE,
PALAKKAD-678 001.
6. CIRCLE INSPECTOR OF POLICE, TOWN SOUTH
CIRCLE, PALAKKAD - 678 001.

BY GOVERNMENT PLEADER SMT.SANJEETHA.K.A.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 6119/2015

PETITIONER'S EXHIBITS:

EXT. P1 THE TRUE COPY OF THE PROHIBITION ORDER DATED 25.2.2009

EXT. P2 THE TRUE COPY OF THE ORDER DATED 3.3.2010 IN WPC 6808/2010

EXT. P3 THE TRUE COPY OF THE JUDGMENT DATED 26.2.2013 IN WPC 5183/2013

EXT. P3(a) THE TRUE COPY OF THE JUDGMENT DATED 26.2.2015 IN WPC 5443/2014

EXT. P4 THE TRUE COPY OF THE REPRESENTATION DATED 23.2.105

EXT. P5 THE TRUE COPY OF THE ORDER DATED 25.2.2012

EXT. P6 THE TRUE COPY OF THE ORDER DATED 5.3.2012 IN WPC 5323/2012

EXT. P7 THE TRUE COPY OF THE ORDER DATED 27.2.2012

EXT. P8 THE TRUE COPY OF THE ORDER DATED 8.3.2012 IN WPC 5699/2012

EXT. P9 THE TRUE COPY OF THE JUDGMENT DATED 16.2.2015 IN WPC 5187/2005

EXT. P10 TRUE COPY OF THE COMMON JUDGMENT DATED 5.3.2009 RENDERED IN TWO WRIT PETITION I.E. WPC 5748 AND 6149 OF 2009

EXT. P11 THE TRUE COPY OF THE CIRCULAR DATED 29.4.2009

EXT. P12 THE TRUE COPY OF THE ORDER DATED 4.7.2008 IN CCC 1210/2006

EXT. P13 THE TRUE COPY OF THE JUDGMENT DATED 6.2.2008 IN WPC 4304/2008

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.6119 of 2015 L

Dated this the 26th day of February, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader for the respondents, 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 petitioners, thirteen in number, all of whom are said to be hoteliers having the requisite licence to vend liquor, filed the writ petition with an apprehension that the fourth respondent may issue prohibitory orders against them from vending liquor on 26.02.2015, i.e. today, in view of Manappulli Bhagavathi Vela, a religious festival.

3. The writ petition was filed on 24.02.2015 and listed before this Court on 25.02.2015, i.e. yesterday. This

Court adjourned the matter by one day to enable the learned Government Pleader to get instructions, especially in view of the fact that there is no impugned order.

4. The learned Government Pleader has submitted that the fourth respondent has not passed any orders interdicting the right of the petitioners to carry on their business. She has further submitted that the writ petition was filed on an unfounded apprehension and it is nothing but abuse of process.

5. The learned counsel for the petitioners has strenuously contended that there have been a number of instances in the past when the authorities passed orders just on the previous day, as could be seen from Exhibit P1. According to him, the petitioners genuinely entertained an apprehension that this time too the authorities may take recourse to such practice so as to prevent them from having immediate access to the court of law.

6. The fact, however, remains that to this day no order, as apprehended by the petitioners, has been passed by the fourth respondent, given the fact that the festival is taking place right now. A past instance of passing orders on short notice or without notice, I do not think, provides any legitimacy to the petitioners to knock at the doors of the court of law. The courts have time and again held that no writ petition is maintainable based on a mere apprehension. I too am of the considered opinion that the approach of the petitioners invoking the public law remedy has boarded on frivolity, if not resulted in abuse of process.

Expressing the Court's displeasure, I dispose of the writ petition as having not survived for further consideration. No order as to costs.

Dama Seshadri Naidu, Judge

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