

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 6396 of 2014 (Y)

PETITIONER :

**DR.R.RAM MOHAN, AGED 46 YEARS
S/O. V.N.RAMAKRISHNA PILLAI, BHAGI, PLOT NO.18
SVNRA, SREEVARAHAM, THIRUVANANTHAPURAM, PIN-695 008.**

**BY ADVS.SRI.K.B.PRADEEP
SRI.ASHOK SURESH**

RESPONDENT(S) :

- 1. THE CORPORATION OF THIRUVANANTHAPURAM
LMS JUNCTION, THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY-695 001.**
- 2. M/S. GUILDSoft PVT. LTD.,
TC. NO.27/1767, 1ST FLOOR
SREE CHITHIRA THIRUNAL GRANTHASALA BUILDINGS
VANCHIYOOR, THIRUVANANTHAPURAM-695 035.**

***ADDL. R3 IMPEADED**

***ADDL.R3. SREE CHITHIRA THIRUNAL GRANTHASALA
VANCHIYOOR, THIRUVANANTHAPURAM.**

***IS IMPEADED AS PER ORDER DATED 13/8/2014 IN IA NO. 10701/14
IN THE WP(C).**

**R1 BY SENIOR ADVOCATE SRI.N.NANDAKUMARA MENON
BY ADV. SRI.P.K.MANOJKUMAR, SC**

**R2 BY ADVS. SRI.V.R.GOPU
SRI.P.C.SASIDHARAN**

ADDL.R3 BY ADV. SRI.SUMAN CHAKRAVARTHY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

WP(C).No. 6396 of 2014 (Y)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 : COPY OF THE ORDER DTD.31.7.2012.**
- EXT. P2 : COPY OF THE ORDER/NOTICE DTD.11.9.2012.**
- EXT. P3 : COPY OF THE REPLY DTD.17.9.2012.**
- EXT. P4 : COPY OF THE LETTER DTD.14.5.2013.**
- EXT. P5 : COPY OF THE ORDER DTD.4.12.2013.**
- EXT. P6 : COPY OF THE LETTER DTD.3.1.2014.**
- EXT. P7 : COPY OF THE CERTIFICATE DT. 15-1-2015.**

RESPONDENT(S)' EXHIBITS :

- EXT. R2(a) COPY OF THE APPEAL MEMORANDUM PREFERRED BY THIS
 DEPONENT AS APPEAL NO. 23 OF 2015.**

//TRUE COPY//

P.S. TO JUDGE

Mn

A.M.SHAFIQUE, J

*** * * * ***

W.P.C.No.6396 of 2014

Dated this the 16th day of June 2015

J U D G M E N T

Petitioner has approached this Court seeking to implement Ext.P5 order passed by the Corporation to remove the unauthorised construction being made by certain tenants who are in occupation of the petitioner's building. 2nd respondent is the tenant of the building. Though Ext.P4 order was passed as early as in 04/12/2013, so far no steps have been taken for demolishing the unauthorised construction. According to the petitioner, the tenant had made such construction without getting permission from the petitioner or from the local authority.

2. Statement has been filed by the 1st respondent inter alia stating that though an attempt was made to demolish the unauthorised construction, there was severe law and order problem. In the absence of sufficient police assistance, it may not be possible for the Corporation to

remove such unauthorised construction. Counter affidavit has been filed by the 2nd respondent inter alia stating that they have preferred an appeal before the Tribunal for Local Self Government Institutions against the order passed at Ext.P5. According to them, the order is liable to be set aside by the appellate authority.

3. Having regard to these factual situations, it is clear that Ext.P5 order has attained finality, of course, subject to any decision that might be taken in the appeal filed by the 2nd respondent before the Tribunal for Local Self Government Institutions. It is pointed out by the Learned counsel for the petitioner that there is no provision to prefer an appeal after the period of limitation and the Tribunal has no power to condone the delay as well. The appeal has been filed only on 06/01/2015 and no number is given to the said appeal.

4. 2nd respondent has no case that Ext.P5 order has not been served on them. It was received by them on

04/12/2013. It is therefore clear that as matters stand now, no effective steps were taken by the 2nd respondent to challenge Ext.P5. In the said circumstances, Corporation ought to have taken appropriate steps for demolishing the unauthorised construction in the building. If there is any unlawful obstruction by any person, the Corporation has to obtain assistance from the police authorities.

Having regard to the aforesaid factual situation, this writ petition is disposed of as under:

i) 1st respondent shall implement Ext.P5 order and if there is any obstruction from the 2nd respondent or any other person, necessary police assistance shall be obtained from the local police.

ii) 1st respondent shall produce copy of this judgment before the Commissioner of Police who shall render necessary assistance for implementing Ext.P5.

iii) The 1st respondent shall take steps after a period of 15 days, to enable the 2nd respondent to approach the

Tribunal. If no order of stay is granted by the Tribunal in the appeal, Ext.P5 order shall be implemented with police assistance.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

