

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

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

WP(C).No. 6217 of 2015 (B)

PETITIONER(S) :

SHIBU K.I., AGED 35 YEARS
AREEPARAMBIL HOUSE, MULAVUKAD P.O, ERNAKULAM
PIN 682 504

BY ADVS.SRI.A.G.BASIL
SRI.P.K.SEBASTIAN

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.
2. COCHIN MUNICIPAL CORPORATION,
REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD
ERNAKULAM BOAT JETTY, COCHIN 682 011
3. DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, CIVIL STATION, KAKKANAD
COCHIN 682 030
4. REVENUE DIVISIONAL OFFICER,
FORT COCHIN, COCHIN 682 001.
5. TALUK OFFICER,
KANAYANNUR TALUK, DISTRICT COURT COMPLEX
PARK AVENUE ROAD, COCHIN 682 011

R BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE
R BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION

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

WP(C) .No. 6217 of 2015 (B)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 PHOTOGRAPH SHOWING THE STREET VENDING RUN BY THE
PETITIONER CONCERNING FRUITS.

EXHIBIT P2 PHOTOGRAPH SHOWING THE SCATTERING HIS STREET VENDING PULL
CART.

EXHIBIT P3 TRUE COPY OF ADMISSION CARD OF THE PETITIONER'S MOTHER
NABEESA AND THE MEDICAL BILL FOR PURCHASING OF MEDICINES FROM MEDICAL
SHOP.

EXHIBIT P4 TRUE COPY OF THE STREET VENDORS (PROTECTION OF LIVELIHOOD
AND REGULATION OF STREET VENDING) ACT, 2014 (7 OF 2014)

EXHIBIT P5 TRUE COPY OF JUDGMENT OF THE HON'BLE SUPREME COURT OF
INDIA IN MAHARASHTRA EKTA HAWKERS UNION AND ANOTHER V. MUNICIPAL
CORPORATION, GREATER MUMBAI AND OTHERS REPORTED IN (2014) 1 SCC 490.

EXHIBIT P6 TRUE COPY OF NEWS ITEM APPEARED IN THE MATHRUBHOOMI DAILY
DATED 5.2.2015.

EXHIBIT P7 TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER
DATED 7.2.2015.

RESPONDENT(S) ' EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

SCL.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No. 6217 of 2015

Dated this the 26th day of February, 2015.

JUDGMENT

The petitioner has approached this Court with the following prayers:

i) Issue a writ of mandamus directing the 2nd respondent to return the mobile pull cart of the petitioner in which the petitioner has been doing his street vending unit;

ii) Direct the 2nd respondent to pay an amount of Rs.25,000/- as compensation to the petitioner for the unlawful destruction of the street vending pull cart and destruction and throwing away of fruits on the streets, which has been kept inside the pull cart;

iii) Direct the 2nd respondent to dispose of Exhibit P7 representation of the petitioner.

iv) Award more compensation to the petitioner under public law remedy from the respondents.

2. The learned counsel for the petitioner points out that the petitioner is having every right to pursue street vending, based on the National Policy declared (which

subsequently came to be enacted in the form of statute) and as per the decision of the Apex Court reported in **Maharashtra Ekta Hawkers Union and another v. Municipal Corporation, Greater Mumbai and otehrs 2014 (1) SCC 490**. It is stated that the proceedings pursued against the petitioner by the Corporation are not in conformity with the statutory mandate. The cart belonging to the petitioner has already been taken possession of, which is still to be returned to the petitioner, despite a request. Quite a lot of damage has been caused to the petitioner, by virtue of the above exercise. It is stated that the petitioner has already moved the second respondent by way of Ext.P7 representation. The prayer is to cause the same to be considered and disposed of within a reasonable time.

In the said circumstance, there will be a direction to the concerned respondent to consider and pass appropriate orders on Ext.P7 in accordance with law, which shall be finalized at the earliest, at any rate, within 'one month' from the date of

receipt of a copy of this judgment.

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

Sd/-
P.R. RAMACHANDRA MENON
JUDGE

Scl.