

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 6445 of 2015 (E)

PETITIONER:

M.KANAKAMBARAN, MANAGING PARTNER,
SREEKASHI WORKING WOMENS' HOSTEL,
VIKASAVANI, THENGODE,
KAKKANAD P.O., KOCHI - 30.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS:

1. THRIKKAKARA MUNICIPALITY, KAKKANAD P.O.,
KOCHI - 682 030, REPRESENTED BY ITS SECRETARY.
2. THE SECRETARY,
THRIKKAKARA MUNICIPALITY, KAKKANAD P.O.,
KOCHI - 682 030.
3. THE THRIKKAKARA MUNICIPAL COUNCIL REPRESENTED
BY THE CHAIRMAN,
THRIKKAKARA MUNICIPALITY, KAKKANAD P.O.,
KOCHI - 682 030.
4. THE CHAIRMAN,
THRIKKAKARA MUNICIPALITY, KAKKANAD P.O.,
KOCHI - 682 030.

R BY SRI.S.SHANAVAS KHAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : TRUE COPY OF THE NOTICE DATED 05.01.2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P1(a) : TRUE ENGLISH TRANSLATION OF EXT.P1.
- EXT.P2 : TRUE COPY OF THE NOTICE DATED 18.02.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P2(a) : TRUE ENGLISH TRANSLATION OF EXT.P2
- EXT.P3 : TRUE COPY OF THE "CERTIFICATE OF ANALYSIS" ISSUED BY THE POLUCHEM LABORATORIES (P) LTD.
- EXT.P4 : TRUE COPY OF THE NOTICE DATED 20.02.2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P4(a) : TRUE ENGLISH TRANSLATION OF EXT.P4
- EXT.P5 : TRUE COPY OF 2ND RESPONDENT'S NOTICE DATED 24.02.2015 COMMUNICATED TO THE PETITIONER.
- EXT.P5(a) : TRUE ENGLISH VERSION OF EXT.P5
- EXT.P6 : TRUE COPY OF THE APPEAL DATED 26.02.2015 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 26.02.2015.
- EXT.P7 : TRUE COPY OF THE STAY PETITION DATED 26.02.2015 FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT.P8 : TRUE COPY OF THE RECEIPT NO.3928 DATED 27.02.2015 ISSUED BY THE 1ST RESPONDENT MUNICIPALITY.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 6445 of 2015 (E)

Dated this the 27th day of February, 2015.

JUDGMENT

This issue, unfortunately, has undergone many rounds of litigation; the petitioner, too, has to blame himself for this sad state of affairs.

2. Earlier, this Court disposed of W.P.(C) No. 5356 of 2015 on 20.02.2015 with a direction to the first respondent Municipality to issue fresh notice to the petitioner and subject the property to inspection to ascertain whether the petitioner has complied with the earlier directives on the part of the authorities to maintain sanitary conditions and other civic requirements. It seems, on the very same day, the authorities issued notice and conducted an inspection on the very next day i.e., 21.02.2015.

3. Having inspected the property, the respondent authorities issued Ext.P5 notice. The petitioner filed a statutory appeal before the 3rd respondent, but assailing some

other notices, which had already become the subject matter of the writ petition before this Court. Under those circumstances, the subsequent writ petition No. 6253 of 2015 was held to be not maintainable by this Court. At that juncture, the learned counsel for the petitioner, having undertaken to withdraw the same, came up with the present writ petition.

4. It is the singular contention of the learned counsel for the petitioner that the respondent authorities have been acting vindictively and have been deliberately suppressing the material facts. According to him, the petitioner complied with all the statutory conditions regarding maintaining sanitation and also other amenities in the ladies hostel being run by the petitioner. The further contention of the learned counsel for the petitioner is that there is no truth, much less any substance in Ext.P5 notice, which has already been appealed against before the 4th respondent. The petitioner has drawn my attention to Ext.P8 receipt issued by the 4th respondent. A perusal of Ext.P8 indicates that the petitioner has filed a statutory appeal only

today. Along with the said statutory appeal, the petitioner is also said to have filed an interlocutory application seeking suspension of Ext.P5 notice issued by the respondent Municipality.

5. Ventilating his grievance that in the interlocutory application filed by the petitioner along with the statutory appeal, the 4th respondent has not passed any orders, almost simultaneously, the petitioner has filed the present writ petition.

6. Leaving aside the technicalities with regard to the wisdom on the part of the petitioner in approaching multiple fora, apart from taking recourse to repeated rounds of litigation, to subserve the interest of justice, I am of the opinion that the 4th respondent, being the appellate authority, shall consider the petitioner's interlocutory application filed along with the statutory appeal and pass appropriate orders thereon, after providing an opportunity of personal hearing to the petitioner.

Accordingly, this Court disposes of the writ petition with a direction to the 4th respondent to consider the petitioner's

interlocutory application filed along with the statutory appeal, as evidenced by Ext.P8 receipt issued by the 4th respondent, after affording an opportunity of personal hearing to the petitioner, and pass appropriate orders thereon, especially after taking into account the much contested aspect whether the petitioner has installed the necessary sewage treatment plan. It only serves the interest of justice if a further observation is made that the respondent Municipality shall not take any precipitous steps pursuant to Ext.P5 notice until the interlocutory application filed by the petitioner is disposed of by the 4th respondent.

sd/- DAMA SESHADRI NAIDU, JUDGE.

