

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 8247 of 2015 (E)

PETITIONER :

**P. SUSEELA,
D/O.PADMAVATHY AMMA, AGED 56 YEARS,
SUBHALAYAM, KIZHAKKANELA, PARIPALLI, KOLLAM.**

BY ADV. SRI.G.SUDHEER

RESPONDENT :

**KALLUVATHUKAL GRAMA PANCHAYAT,
REPRESENTED BY IT'S SECRETARY, KALLUVATHUKAL P.O.,
KOLLAM DISTRICT. PIN-690 001**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 8247 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE ORDER NO.B2/8680/12 DATED 23.04.12 ISSUED BY THE RESPONDENT WITH TRUE ENGLISH TRANSLATION**
- EXHIBIT P2. TRUE COPY OF THE ORDER IN APPEAL NO.381/12 PASSED BY THE TRIBUNAL FOR LOCAL SELF GOVT. INSTITUTIONS, THIRUVANANTHAPURAM.**
- EXHIBIT P3. TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER WITH TRUE ENGLISH TRANSLATION**
- EXHIBIT P4. TRUE COPY OF FINAL ORDER DATED NIL ISSUED BY THE RESPONDENT WITH TRUE ENGLISH TRANSLATION**
- EXHIBIT P5. TRUE COPY OF THE APPEAL FILED BY THE TRIBUNAL FOR LOCAL SELF GOVT. INSTITUTIONS, THIRUVANANTHAPURAM.**
- EXHIBIT P6. TRUE COPY OF WRITTEN STATEMENT BY RESPONDENT .**
- EXHIBIT P7. TRUE COPY OF APPEAL NO.818/13 DATED 11.02.15 ON THE FILE OF TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS.**
- EXHIBIT P8. TRUE COPY OF QUESTIONS AND ANSWER ISSUED TO SAJEEV KUMAR BY THE RESPONDENT UNDER RIGHT TO INFORMATION ACT. WITH TRUE ENGLISH TRANSLATION**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.M.SHAFFIQUE, J

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W.P.C.No.8247 of 2015

Dated this the 26th day of May 2015

J U D G M E N T

Petitioner challenges Ext.P7 order dated 11/02/2015 in Appeal No.818/2013 of the Tribunal for Local Self Government Institutions by which the appeal filed by the petitioner has been dismissed.

2. Petitioner is in possession of a premises taken on lease arrangement from the respondent Panchayath. Petitioner made an additional construction, which according to her, was only temporary in nature. Panchayath issued notice to remove the said construction. As against an order initially passed by the Panchayath, petitioner preferred an appeal before the Tribunal as Appeal No.381/2012. The appeal was dismissed directing the Secretary to consider the contention urged by the petitioner as well, as the impugned order was only provisional in nature. Pursuant to the same, Panchayath heard the matter and passed Ext.P4 order

directing the petitioner to remove the construction work within 15 days. It is, challenging Ext.P4 order, that the appeal was filed before the Tribunal.

3. The Tribunal, having considered the factual and legal aspects elaborately, dismissed the appeal.

4. The short question involved in the case is whether the petitioner is entitled to retain the construction made by her in the premises, which according to her, was only temporary in nature. The main contention urged by the Panchayath is that by virtue of the terms of agreement entered into between the parties, petitioner is not in a position to make any additional construction in the said premises. Further, the report of the Overseer indicated that beneath the roof height on the north and west of the petitioner's room, GI pipe has been erected as pillars and it has been enclosed with net to a width of 1.60 metres and length of 4.20 metres. In so far as the construction is not in terms with the agreement between the parties, the Panchayath is having the legal right to call upon the allottee

to demolish the said structure. No illegality is pointed out in the action of the Secretary of the Panchayath. Under such circumstances, I do not find anything wrong in the Tribunal dismissing the appeal filed by the petitioner while confirming the order at Ext.P4.

Having regard to the aforesaid factual finding, I do not find any ground to interfere with Ext.P7 order. Accordingly, the writ petition is dismissed.

(sd/-)

(A.M.SHAFIQUE, JUDGE)

jsr

