

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 8772 of 2015 (V)

PETITIONER(S) :

- 1. RAJU, AGED 36 YEARS,
S/O.KUNHUPILLA, KUMBALATH THEKKATHIL, MULLAKKERY,
PANMANA P.O., VADAKKUMTHALA VILLAGE, CHAVARA,
KOLLAM DISTRICT.**
- 2. SHAHUL HAMEED, AGED 62 YEARS,
DAR-U-SALAM, MULLAKKERY, PANMANA P.O.,
CHAVARA, KOLLAM DISTRICT.**

**BY ADVS.SRI.C.RAJENDRAN
SRI.K.R.RANJITH
SMT.R.S.SREEVIDYA**

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. DISTRICT COLLECTOR,
KOLLAM DISTRICT.**
- 3. THE REVENUE DIVISIONAL OFFICER/SUB DIVISIONAL MAGISTRATE,
COLLECTORATE, KOLLAM.**
- 4. TAHSILDAR,
KARUNAGAPPALLY TALUK, KARUNAGAPPALLY, KOLLAM.**
- 5. THE VILLAGE OFFICER,
VADAKKUMTHALA VILLAGE, KOLLAM DISTRICT.**
- 6. PANMANA GRAMA PANCHAYAT,
PANAM, KOLLAM DISTRICT, REPRESENTED BY ITS SECRETARY,
KOLLAM.**
- 7. SUB INSPECTOR OF POLICE,
CHAVARA POLICE STATION, CHAVARA, KOLLAM - 691 583.**

WP(C).No. 8772 of 2015 (V)

**8. VADAKKUMTHALA MUSLIM JAMA-ATH,
REGISTERED NO.17/72, VADAKKUMTHALA,
KOLLAM DISTRICT.**

**9. ISLAHI TRUST,
REGISTER NO.137/99, VADAKKUMTHALA EAST P.O.,
KARUNAGAPPALLY TALUK, KOLLAM DISTRICT,
REPRESENTED BY ITS SECRETARY, PIN - 690 536.**

**R1 TO R5 & R7 BY GOVERNMENT PLEADER SRI.P.S.SAJEEV
R6 BY ADVS. SRI.V.G.ARUN
R8 BY ADV. SRI.JOHNSON GOMEZ
R9 BY ADV. SRI.A.A.ABUL HASSAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1: A TRUE PHOTOCOPY OF THE PETITION DATED 15.01.2015 BEFORE THE 2ND RESPONDENT.**
- EXHIBIT P2: A TRUE PHOTOCOPY OF THE PETITION DATED 27.01.2015 BEFORE THE 4TH RESPONDENT TAHSILDAR.**
- EXHIBIT P3: A TRUE PHOTOCOPY OF THE NOTICE DATED 31.01.2015.**
- EXHIBIT P4: A TRUE PHOTOCOPY OF THE STATEMENT GIVEN IN WRITING BY HARIKUMAR DATED 18.02.2015 BEFORE THE 4TH RESPONDENT.**
- EXHIBIT P5: A TRUE PHOTOCOPY OF THE STATEMENT GIVEN IN WRITING BY FAZALUDDEEN DATED 18.02.2015 BEFORE THE 4TH RESPONDENT.**
- EXHIBIT P6: A TRUE PHOTOCOPY OF THE STATEMENT GIVEN IN WRITING BY ASHRAF DATED 18.02.2015 BEFORE THE 4TH RESPONDENT.**
- EXHIBIT P7: A TRUE PHOTOCOPY OF THE PETITION DATED NIL SUBMITTED BY THE 8TH RESPONDENT BEFORE THE 2ND RESPONDENT.**
- EXHIBIT P8: A TRUE PHOTOCOPY OF THE PROCEEDINGS DATED 05.03.2015 OF THE 2ND RESPONDENT.**
- EXHIBIT P9: A TRUE PHOTOGRAPH TAKEN ON 21.03.2015.**
- EXHIBIT P10: A TRUE PHOTOGRAPH TAKEN 25.03.2015.**
- EXHIBIT P11: A TRUE PHOTOGRAPH TAKEN ON 26.03.2015.**
- EXHIBIT P12: A TRUE PHOTOGRAPH TAKEN ON 02.04.2015.**
- EXHIBIT P13: A TRUE PHOTOGRAPH TAKEN ON 04.04.2015.**
- EXHIBIT P14: A TRUE PHOTOCOPY OF THE STOP MEMO DATED 26.03.2015 ISSUED BY THE 6TH RESPONDENT.**
- EXHIBIT P15: A TRUE PHOTOCOPY OF THE RELEVANT PAGE OF THE BOOK AHLUSUNNA.**
- EXHIBIT P16: A TRUE PHOTOCOPY OF THE RELEVANT PAGE OF THE BOOK AHLUSUNNA.**
- EXHIBIT P17: A TRUE PHOTOCOPY OF THE RELEVANT PAGE OF THE MADHYAMAM DAILY DATED 23.05.2015.**

**EXHIBIT P18: A TRUE PHOTOCOPY OF THE PETITION AND STATEMENT
DATED 27.01.2015.**

**EXHIBIT P19: A TRUE PHOTOCOPY OF THE DOCUMENTS GIVEN TO
ADV.BORIS PAUL BY THE 2ND RESPONDENT DATED 28.02.2015.**

**EXHIBIT P20: THE PHOTOGRAPH SHOWING THE INTERFERENCE OF POLICE
DATED 26.07.2015.**

**EXHIBIT P20(A): THE PHOTOGRAPH SHOWING THE DEPLOYMENT OF POLICE
FORCE AT THE PLACE DATED 26.07.2015.**

**EXHIBIT P20(B): THE PHOTOGRAPH SHOWING THE DEPLOYMENT OF POLICE
FORCE AT THE PLACE DATED 26.07.2015.**

RESPONDENT(S)' EXHIBITS :

**EXT.R9(A): A TRUE COPY OF THE MINUTES DATED 06.12.2014 OF
THE MEETING.**

**EXT.R9(B): A TRUE COPY OF THE SALE DEED NO.3832 OF 2014 OF SUB
REGISTRAR'S OFFICE, CHAVARA.**

**EXT.R9(C): A TRUE COPY OF THE TAX RECEIPT DATED 11.12.2014 ISSUED BY
THE VILLAGE OFFICER, VADAKKUMTHALA.**

**EXT.R9(D): A TRUE COPY OF THE BUILDING PLAN SUBMITTED BEFORE
THE GRAMA PANCHAYAT AND APPROVED BY THEM.**

**EXT.R9(E): A TRUE COPY OF THE MINUTES DATED 04.03.2015 OF
THE MEETING.**

**EXT.P9(F): A TRUE COPY OF THE NO OBJECTION CERTIFICATE
DATED 06.03.2015 ISSUED BY THE PWD.**

**EXT.P9(G): A TRUE COPY OF THE BUILDING PERMIT DATED 06.03.2015
ISSUED BY THE GRAMA PANCHAYAT.**

**EXT.P9(H): A TRUE COPY OF THE PHOTOGRAPH SHOWING THE PROGRESS
OF THE WORK.**

**EXT.P9(I): A TRUE COPY OF THE LETTER DATED 17.09.2014 OF
THE 8TH RESPONDENT EXHIBIT P2 PRODUCED IN
W.P.(C).NO.25003/2014.**

**EXT.P9(J): A TRUE COPY OF THE FACE BOOK PAGE OF 07.03.2015
REPORTING THE NEWS.**

WP(C).No. 8772 of 2015 (V)

**EXT.P9(K): A TRUE COPY OF REPLY DATED 27.03.2015 SUBMITTED BEFORE
THE PANMANA GRAMA PANCHAYAT.**

**EXT.P9(L): TRUE COPY OF THE PAGE NO.469 OF THE HOLLY QUR'AN
CONTAINING VERSES 107, 108 AND 109 IS BY ABDULLA YUSUF
ALI.**

**EXT.P9(M): TRUE COPY OF THE PAGE NO.154 OF ENGLISH TRANSLATION
CALLED MEANING OF GLORIOUS KORAN BY MOHAMMED
MARMADUKE PICKTHALL.**

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.M.SHAFIQUE, J

W.P.C.No.8772 of 2015

Dated this the 4th day of December 2015

J U D G M E N T

Petitioners challenge Ext.P8, an order passed by the District Collector permitting construction of the mosque by the 9th respondent.

2. The main contention urged by the petitioner is that valid objection raised by the petitioners have not been considered by the District Collector while permitting construction of the mosque by the 9th respondent.

3. Petitioners' objection in regard to the construction of the mosque was that it may create law and order situation as there is objection between the two factions of the community regarding the rituals and other religious activities being proposed to be carried on in the said mosque. It is stated that there is substantial conflict between the members of the same community in the locality and if such a situation arises, there will be a law and order situation which could not be controlled by the police or District Administration. That apart, perusal of the material produced on record would clearly indicate that the District Collector had passed an order based on the directions issued by

the Home Minister concerned and therefore Ext.P8 order is clearly without application of mind.

4. Counter affidavit has been filed by the parties concerned supporting the stand taken in Ext.P8.

5. Heard learned counsel for the petitioners as well as the learned counsel appearing on either side.

6. Learned counsel for the petitioners, relied upon Ext.R9(E), the minutes of meeting held on 04/03/2015 by which it was observed that the issue between the two factions of the community had been settled in a meeting held at the instance of the Home Minister and the Labour Minister in the presence of several officials of the Government, Police officials and members of the community. In the said meeting, it was also observed that the District Collector has to pass appropriate orders in the matter for construction of Salafi Masjid. It was further observed that the issues between the parties were not settled. The argument of the learned counsel for the petitioners is that, it is, based on the aforesaid direction, that the District Collector, without application of mind, had passed Ext.P8 order.

7. On the other hand, learned counsel appearing for the 9th respondent submits that, by virtue of Ext.R9(a), the issues

between respondents 8 and 9 had already been settled amicably and there was no reason for any further disturbance in the locality as far as the rights of the parties are concerned.

8. Having regard to the aforesaid factual situation, the short question to be considered is regarding the validity of Ext.P8.

9. It cannot be disputed that the scope of judicial review in respect of the orders passed by the District Collector in such matters is of a very limited nature. It is pointed out by the learned counsel for the petitioners that though the petitioners had raised objections, the decision had been made only on the basis of the decision in the meeting held on 04/03/2015. Of course, a perusal of Ext.P8 would indicate that the said decision was also a factor which was considered by the District Collector. But, it is relevant to note that necessary enquiry had been conducted by the District Collector through the Tahsildar as well as the Sub Collector and the objections of the objectors were heard, and their statements were recorded. It is, after taking into consideration the entire factual situation, that directions had been issued, which apparently includes the decision taken on 04/03/2015. When two factions of a community, who were at loggerheads, had already settled the matter by way of adjustments or compromise, to

enable the construction of the mosque, the same cannot be a reason for the District Collector to come to a different opinion. Petitioners being individuals, have also objected to the construction of the mosque. But their objections were also considered as evident from Ext.P8 order of the District Collector.

10. Merely for the reason that a reasoned order has not been passed by the District Collector after having taken note of the objections and reasons for rejecting the same, I do not think that the same cannot be a ground for setting aside Ext.P8. It is observed that substantial compliance had been made by the District Collector in the matter relating to the enquiry conducted for permitting a mosque to be constructed in a particular locality. Necessary reports of the police authorities have also been obtained before passing the impugned order.

Under such circumstances, I do not find any error in the order passed by the District Collector and accordingly this writ petition is dismissed.

(sd/-)

(A.M.SHAFIQUE, JUDGE)

jsr