

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 9680 of 2015 (H)

PETITIONER:

LEELAMMA GEORGEKUTTY, KADAPLACKAL HOUSE,
TEEKOY P.O.,KOTTAYAM DISTRICT, PIN - 686 580.

BY SRI.S.SREEKUMAR (SENIOR ADVOCATE)
ADVS. SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA

RESPONDENT(S):

1. TEEKOY GRAMA PANCHAYAT, TEEKOY,
REPRESENTED BY ITS SECRETARY, PIN - 686 580.
2. THE SECRETARY,
TEEKOY GRAMA PANCHAYAT, TEEKOY, PIN - 686 580.
3. DEPUTY DIRECTOR OF PANCHAYAT,
LOCAL SELF GOVERNMENT DEPARTMENT,
CIVIL STATION, KOTTAYAM - 686 001.
4. THE EXECUTIVE ENGINEER,
PUBLIC WORKS ROADS DIVISION,
MINI CIVIL STATION, PALA - 686 575.
5. THE DISTRICT MEDICAL OFFICER,
DEPARTMENT OF HEALTH SERVICES,
CIVIL STATION, KOTTAAM - 686 001.
6. JOY KANDATHIL, TEEKOY, PALLIVATH, PIN - 686 580.

*ADDL. R7 IMPEADED

7. THE GEOLOGIST, GROUND WATER DEPARTMENT, KOTTAYAM.

IS SUO MOTU IMPEADED AS ADDL. R7 AS PER ORDER
DATED 9.7.2015.

R1 & R2 BY ADVS. SRI.SHAJI THOMAS
SRI.BINU PAUL
SRI.T.V.VNU
SRI.GEORGE PULIKUTHIYIL
R3 TO R5 & ADDL-R7 BY GOVT. PLEADER SRI.RANJITH
R6 BY SRI.K.JAJU BABU (SENIOR ADVOCATE)
SMT.M.U.VIJAYALAKSHMI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-11-2015, ALONG WITH WPC. 17088/2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 - TRUE COPY OF REPRESENTATION DT. 10.3.15 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS 1,2 AND 4.
- P1(A) - TRUE COPY OF ENGLISH TRANSLATION OF EXT. P1.
- P2 - TRUE COPY OF ACKNOWLEDGMENT CARD, ACKNOWLEDGING RESPONDENTS 1 AND 2.
- P2(A) - TRUE COPY OF ENGLISH TRANSLATION OF EXT. P2.
- P3 - TRUE COPY OF POST RECEIPT FOR THE REPRESENTATION GIVEN TO THE 4TH RESPONDENT.
- P4 - TRUE COPY OF REPRESENTATION DT. 10.3.15 SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT.
- P4(A) - TRUE COPY OF ENGLISH TRANSLATION OF EXT. P4.
- P5 - TRUE COPY OF ACKNOWLEDGMENT CARD OF 5TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:

- EXT. R4(A) : A TRUE COPY OF THE SURVEY MAP OF THE ERATTUPETTA-PEERUMEDU STATE HIGHWAY.
- EXT. R4(B) : A TRUE COPY OF THE NOTICE DATED 27.3.2015.
- EXT. R6(A) : COPY OF THE REPORT OF THE ENGINEERS ISSUED TO THE 6TH RESPONDENT UNDER RIGHT TO INFORMATION ACT BY THE 2ND RESPONDENT VIDE LETTER NO.A2-1938 DATED 3.6.2015.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.M. SHAFFIQUE, J.

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W.P. (C) Nos. 9680 & 17088 of 2015

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Dated this, the 13th day of November, 2015

J U D G M E N T

These writ petitions concern a building being constructed by the petitioners in WP(C) No.17088/15. The petitioner in WP(C) No.9680/15 has given certain complaints to the local authority as well as the PWD authorities complaining of the irregularities in the construction.

2. It is submitted by either side that the construction of the building had been completed and the building had been provisionally numbered. By an interim order dated 9/7/2015, this Court had directed the Panchayat to provisionally number the building and issue occupancy certificate to the building owner. Directions were also issued to the Geologist, Ground Water Department to conduct an inspection of the premises of the petitioners and to verify whether the septic tank proposed to be commissioned would cause any pollution to the nearby water sources, including the check dam. A report is seen filed before this Court in which it is stated that the distance between the open

well of the petitioner in WP(C) No.9680/15 and the septic tank constructed along with the multi storied building of the 6th respondent is 26.44 meters. It is also stated that as per the present situation, there is no health hazard to the public and no pollution will be caused to the nearby water sources including the check dam.

3. Learned counsel appearing for the petitioner in WP(C) No.9680/15 would submit that despite numbering of the building as per the interim order issued by this Court, there is material to indicate that the building had been constructed by the petitioners in WP(C) No.17088/2015 in violation of the Building Rules. This fact is disputed by the learned counsel appearing on behalf of the building owners. Learned counsel appearing for the Panchayat also tries to substantiate on the basis of counter affidavit that though most of the alleged violations had been rectified, still, there is violation of the Building Rules.

4. Having regard to the aforesaid factual situation, I do not think that this Court should deliberate on the details of the alleged violations, if any. It is for the local authority to verify whether the building has been constructed in accordance with the

W.P(C) Nos.9680/17088/15

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plan as well as the Building Rules. If there is any deficiency, it is open for the Panchayat to issue notice to the petitioners in WP(C) No.17088/15 and seek for rectification of the same and thereafter proceed in accordance with law. Appropriate steps in this regard shall be taken within a period of four months from the date of receipt of a copy of this judgment. It is made clear that the petitioners in WP(C) No.17088/15 will be entitled to utilize the building for the intended purpose.

These writ petitions are disposed of with the above observation.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

16/11/2015

//True Copy//

P.S to Judge