

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 10016 of 2015 (B)

PETITIONER :

JOY K.S,
AGED 46 YEARS,
S/O.KUNJURAGHAVAN, KALABHAM, VADASSERIKKONAM.P.O,
VARKALA, THIRUVANANTHAPURAM 695143.

BY ADV. SRI.AYYAPPAN SANKAR

RESPONDENTS :

1. KERALA LOK AYUKTA,
REPRESENTED BY ITS REGISTRAR,
KERALA LEGISLATIVE ASSEMBLY COMPLEX, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM – 695 001.
2. KOUSALYA,
AGED 86 YEARS,
W/O.LATE SRINIVASAN, RESIDING AT HEMALATHA MANDIRAM,
VADASSERIKONAM PO, VARKALA, THIRUVANANTHAPURAM 695743.
3. DEPUTY SUPERINTENDENT OF POLICE,
ATTINGAL–695 521.
4. SUB INSPECTOR OF POLICE,
KALLAMBALAM–695286.
5. SECRETARY,
OTTOOR GRAMA PANCHAYATH, OTTOOR, MANAMBOOR.P.O.,
PIN 695611.
6. MURALEEDHARAN,
S/O.SREENIVASAN, RESIDING AT KODALIVILA VEEDU,
VANCHIYOOR, ALANKODE.P.O, ATTINGAL,
THIRUVANANTHAPURAM– 695 285.

R2 BY ADV. SRI.M.R.RAJESH
BY GOVERNMENT PLEADER SRI.V.K.RAFEEQ
BY SMT.RENU. D.P., SC, LOK AYUKTA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :-

- P1: TRUE PHOTOCOPY OF OWNERSHIP CERTIFICATE DATED 30.01.2015 ISSUED BY 5TH RESPONDENT.
- P2: TRUE PHOTOCOPIES OF LICENCES (6NOS).
- P3: TRUE PHOTOCOPY OF NOTICE DATED 20.10.2014 ISSUED BY 5TH RESPONDENT.
- P4: TRUE PHOTOCOPY OF LETTER DATED 19.02.2015 GIVEN BY PETITIONER TO 5TH RESPONDENT.
- P5: TRUE PHOTOCOPY OF PLAINT IN OS.NO.532/2014 ON THE FILE OF MUNSIF'S COURT, VARKALA.
- P6: TRUE PHOTOCOPY OF IA.NO.57/2015 IN OP.NO.50/2015 ON THE FILE OF THE FAMILY COURT, ATTINGAL.
- P7: TRUE PHOTOCOPY OF EXPARTE INTERIM ORDER DATED 12.01.2015 IN IA.NO.57/2015 IN OP.NO.50/2015 OF FAMILY COURT, ATTINGAL.
- P8: TRUE PHOTOCOPY OF ORDER DATED 02.03.2015 OF LOK AYUKTHA IN IA.NO.579/2015 IN C.N.505/2015.
- P9: TRUE PHOTOCOPY OF COMPLAINT IN COMPLAINT NO.505/2015 DATED 26.02.2015.

RESPONDENTS' EXHIBITS :-

- EXT.R2(A) COPY OF THE AGREEMENT DTD.20.5.2008 EXECUTED BY CHANDRIKA & 3 OTHERS.
- EXT.R2(B) COPY OF RENT DEED DTD.1.10.2008 EXECUTED BY THE 6TH RESPONDENT IN FAVOUR OF THE 2ND RESPONDENT.
- EXT.R2(C) COPY OF THE COMMISSION REPORT IN O.S.No.532/2014 OF MUNSIF COURT, VARKALA.
- EXT.R2(D) COPY OF THE COMPLAINT GIVEN BY PETITIONER AND HIS WIFE MINI TO THE 3RD RESPONDENT.
- EXT.R2(E) COPY OF COMPLAINT DTD.2.12.2014 GIVEN TO THE RURAL S.P. BY THE 6TH RESPONDENT.
- EXT.R2(F) COPY OF THE ENQUIRY REPORT DTD.18.12.2014 SUBMITTED BY THE NARCOTIC D.S.P. TO THE DISTRICT POLICE CHIEF, RURAL.
- EXT.R2(G) COPY OF THE COMPLAINT DTD.4.10.2014 GIVEN BY HEMALATHA TO THE 5TH RESPONDENT.

- EXT.R2(H) COPY OF THE LICENSE APPLICATION DTD.6.11.2014 GIVEN TO THE 5TH RESPONDENT BY THE PETITIONER.
- EXT.R2(I) COPY OF THE LETTER ISSUED FROM THE POST OFFICE CONFIRMING DELIVERY OF EXT.R2(H) ON 14.11.2014.
- EXT.R2(J) COPY OF COMPLAINT DTD.14.11.2014 GIVEN TO THE PANCHAYATH DIRECTOR.
- EXT.R2(K) COPY OF THE RECEIPT ISSUED WHILE RECEIVING EXT.R2(J).
- EXT.R2(L) COPY OF THE COMPLAINT DTD.11.11.2014 IN OP 1511/2014 BEFORE THE OMBUDSMAN FOR LOCAL SELF GOVT.INSTITUTIONS.
- EXT.R2(M) COPY OF IMPEADING APPLICATION FILED IN O.P.1511/2014 OF THE OMBUDSMAN.
- EXT.R2(N) COPY OF THE COMPLAINT DTD.13.2.2015 GIVEN TO THE RURAL SUPERINTENDENT OF POLICE BY THE 2ND RESPONDENT.
- EXT.R2(O) COPY OF THE COMPLAINT GIVEN TO THE RURAL SP DTD.23.2.2015 BY THE 2ND RESPONDENT.
- EXT.R2(P) COPY OF THE COMPLAINT GIVEN TO 4TH RESPONDENT BY PETITIONER DTD.24.11.2014 OBTAINED UNDER R.I. ACT.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.10016 of 2015

Dated this the 1st day of October, 2015

JUDGMENT

The petitioner has filed this Writ Petition seeking a writ of certiorari to quash Ext.P8 order passed by the Lok Ayukta dated 2.3.2015 and also seeking a writ of prohibition prohibiting the Lok Ayukta from proceeding further with Ext.P9 complaint. The main contention raised by the petitioner is that Ext.P9 complaint filed by the 2nd respondent before the Lok Ayukta is not maintainable and as such the Lok Ayukta was not justified in issuing Ext.P8 interim order.

2. By order dated 27.3.2015 this Court has granted an interim order to maintain status quo till the next posting date, which was extended until further orders on 5.6.2015.

3. Today when the case was taken up for final hearing, after arguing for some time the learned counsel for the petitioner would submit that the petitioner shall raise the question of maintainability of Ext.P9 complaint as well as the legality of Ext.P8 interim order before the Lok Ayukta itself and that this Writ Petition may be disposed of reserving the aforesaid right of the petitioner.

4. I heard the learned counsel for the petitioner, learned Standing Counsel for the 1st respondent, learned counsel for the 2nd respondent and also the learned Government Pleader appearing for respondents 3 and 4.

5. In view of the submission made by the learned counsel for the petitioner, this Writ Petition is disposed of reserving the right of the petitioner to raise the question of maintainability of Ext.P9 complaint as well as legality of Ext.P8 interim order before the Lok Ayukta itself.

6. The interim order of status quo granted in this Writ Petition shall continue to be in force till the next posting date so as to enable the petitioner to move appropriate application before the Lok Ayukta to raise the question of maintainability of Ext.P9 complaint/Ext.P8 interim order.

No order as to costs.

Sd/-

ANIL K.NARENDRA, JUDGE

skj