

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 10347 of 2015 (P)

PETITIONERS:

1. SAID MUHAMMED A.T. AGED 47 YEARS
S/O. ABOOBACKER, THEENATTU HOUSE, HMT COLONY P.O.
KALAMASSERY, ERNAKULAM DISTRICT.
2. K.M. BAVA, AGED 65 YEARS
S/O. MARIKKAR, KUDILIL HOUSE, CHENAKKAL ROAD
HMT COLONY P.O., KALAMASSERY, ERNAKULAM DISTRICT.
3. ABDUL KHADER, AGED 43 YEARS
S/O.I.P. USMAN, THEENATTU HOUSE, HMT COLONY P.O.
KALAMASSERY, ERNAKULAM.
4. ABDUL KARIM, AGED 60 YEARS
S/O. NAINA PILLAI, VARYATHU HOUSE, SOUTH KALAMASSERY
ERNAKULAM DISTRICT.
5. MUHAMMEDALI, AGED 62 YEARS
S/O. KOCHU MARIKKAR, PALIATHUKATTIL HOUSE
CHENAKKAL ROAD, KALAMASSERY P.O., ERNAKULAM DISTRICT.
6. AHAMMED ALI, AGED 48 YEARS
S/O.I.P. USMAN, IYYATU HOUSE, HMT COLONY P.O
KALAMASSERY, ERNAKULAM DISTRICT.
7. FIROZ AGED 32 YEARS
S/O. UMMAN, CHALUNKAL HOUSE, HMT COLONY P.O.
KALAMASSERY, ERNAKULAM.
8. LATHEEF AGED 30 YEARS
S/O. M.M. MUHAMMED, MANAKKATTU HOUSE, HMT COLONY P.O.
KALAMASSERY, ERNAKULAM.

9. SULEKHA UMMER, AGED 49 YEARS
W/O. LATE UMMER, IYYATHU HOUSE, HMT COLONY P.O.
KALAMASSERY, ERNAKULAM DISTRICT.

10. MANIYAPPAN, AGED 38 YEARS
S/O. GOPALAN, 34048, VEERMBRATHU HOUSE
CHEMBU P.O., VAIKOM, ERNAKULAM DISTRICT.

BY ADVS.SRI.K.ABDUL JAWAD
SRI.MATHEW A KUZHALANADAN

RESPONDENTS:

1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT (URBAN AFFAIRS) DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695 001.
2. THE ASSISTANT EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT, ROADS SUB DIVISION
CIVIL STATION, KAKKANAD -682 030.
3. THE KALAMASSERY MUNICIPALITY,
REPRESENTED BY ITS SECRETARY
CHANGAMPUZHA NAGAR P.O., ERNAKULAM - 680 233.

R1 BY GOVERNMENT PLEADER SRI MANOJ P KUNJACHAN
R2 BY SPECIAL GOVERNMENT PLEADER (PWD) P M A KALAM
R3 BY ADV. SRI.M.K.ABOOBACKER,SC KALAMASSERY MUNICIPALITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 10347 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 3RD RESPONDENT ON 01/09/2012 ALONG WITH ENGLISH TRANSLATION.

EXHIBIT-P2-TRUE COPY OF THE LETTER DATED 15/10/2014, ISSUED ON BEHALF OF THE 1ST RESPONDENT.

EXHIBIT-P3-TRUE COPY OF THE LETTER DATED 17/10/2014 OF THE DIRECTOR OF URBAN AFFAIRS ALONG WITH ENGLISH TRANSLATION.

EXHIBIT-P4-TRUE COPY OF THE COMMUNICATION DATED 31/10/2014 OF THE 3RD RESPONDENT, ALONG WITH ENGLISH TRANSLATION.

EXHIBIT-P5-TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT IN W.P(C) 33428/2014.

EXHIBIT-P6-TRUE COPY OF THE STATEMENT FILED BY THE 3RD RESPONDENT IN W.P (C) 33428/2014.

EXHIBIT-P7-TRUE COPY OF THE REPRESENTATION DATED 20/03/2015 SUBMITTED BY THE PETITIONERS BEFORE THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

W.P(C) No. 10347 of 2015

Dated this the 04th day of June, 2015

J U D G M E N T

The petitioners claim to be street vendors who are carrying on their vending activities in vacant road purmboke along the HMT road at Kalamassery alleged to be carried on for the last fifty years. It is submitted that in a Public Interest Litigation filed before this Court, the PWD had filed a counter affidavit, in which the petitioners claims were admitted. The learned Counsel for the PWD also submits that the PWD has earmarked a land in which the petitioners can be permitted to continue the street vending. However, for reason of a scheme having not been framed by the Town Vending Committee as constituted under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014; the rehabilitation has not materialised till date.

2. I have heard the learned counsel for the petitioner, the learned Standing Counsel for the Municipality as also the learned Special Government Pleader(PWD). The learned Special Government Pleader on instruction, would submit that the petitioners would be rehabilitated at the earmarked land, and that the same is delayed only for the reason of the Municipality having not framed a specific scheme.

3. The learned Standing Counsel for the Municipality would submit that the land which the petitioners now occupy is required for road widening. It is also submitted that the scheme is yet to be finalised under the Act and the Town Vending Committee is attempting to register itself as directed in Ext.P3.

4. The learned counsel for the petitioners submit that if at least they are shown the land; they would erect their own bunks. In such circumstance, the petitioners shall file applications before the 2nd respondent and the 2nd respondent shall after site

inspection along with the petitioners, earmark specific portion for each of the petitioners, upon which the bunks shall be constructed at the expense of the petitioners on the specification made by the 2nd respondent. It is made clear that the petitioners cannot raise any claim or unconditional right over the property and the commencement of their operation would be subject to the scheme to be framed by the Town Vending Committee and an agreement with the PWD. The exercise of allotment shall be completed within a period of two months from the date of receipt of a copy of this judgment and the petitioners shall not be evicted till then.

Writ petition disposed of with the above direction.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge