

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C). No.14711 of 2012 (L)

PETITIONER(S):

**BALASUBRAMANIAN K.G. AGED 37 YEARS,
S/O. K.C. GOPI, KALATHIL HOUSE, ELAMKUNNAPUZHA.P.O.,
ERNAKULAM, KOCHI-682503.**

**BY ADVS.SRI.SREELAL N.WARRIER
SRI.B.RAGHUNANDANAN
SRI.K.J.ABRAHAM
SMT.A.SREEKALA (VAIKOM)**

RESPONDENT(S):

**NJARAKKAL GRAMA PANCHAYATH,
NJARAKKAL-682505, REPRESENTED BY THE SECRETARY.**

**BY ADVS. SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
SRI.SABU P.JOSEPH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- COPY OF THE RECEIPT DATED 22.3.2012 ISSUED BY THE RESPONDENT TO THE PETITIONER FOR THE LICENSE FEE RECEIVED FOR THE PERIOD 2012-13.
- P2:- COPY OF THE REGISTRATION CERTIFICATE DATED 30.5.2012 UNDER THE KERALA VALUE ADDED TAX ACT ISSUED TO THE PETITIONER.
- P3:- COPY OF THE AFFIDAVIT DATED 17.1.2011 SUBMITTED BY THE OWNER TO THE RESPONDENT.
- P4:- COPY OF THE NOTICE DATED 13.6.2012 ISSUED BY RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL

KRJ

/True Copy/

P.A to Judge

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.14711 of 2012

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Dated this the 19th day of February, 2015

JUDGMENT

Ext.P4 notice is under challenge.

2. The petitioner is running a textile shop under the name and style 'Cheeran's Fabrics' in the shop room with door no.V-162 (A)(UA). He alleges that the business was being conducted by him since 2007 in the said premises with the licence issued by the respondent. He points out that the previous owner of the business who is the owner of the shop room was issued with Ext.P4 notice pointing out that the business cannot be carried out in the building for the reason that the building was only provisionally numbered as unauthorised category. He further points out that no notice has been issued to him who is the present owner of the business. As per Ext.p4, the previous owner of the business was directed to close down the business within 24 hours. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. It is evident from Ext.P1 that the respondent was receiving licence fee for the business of the petitioner. Ext.P1 relates to the period 2012-2013. The stand taken by the respondent is that the building was classified and numbered as unauthorised. Notice to stop the business was sent to the building owner and not to the petitioner who is the owner of the business. Therefore, any action for stoppage of the business would be in violation of the principles of natural justice.

5. The learned counsel for the petitioner points out that there are several buildings classified to be in violation of the planing restrictions in respect of road margin in Vypin-Munambam road. However, the petitioner was singled out to be proceeded against. The learned counsel for the petitioner also invited my attention to Ext.P3 affidavit filed by the owner of the building by which she had undertaken to demolish that section which may be found in violation of the scheme as and when the special development scheme would be implemented through out. The restriction on the use of the premises until then to deprive the petitioner of livelihood would be unjust and arbitrary.

Therefore, the writ petition is allowed. Ext.P4 is quashed. The respondent panchayat is directed to reconsider the issue after affording the petitioner an opportunity of being heard. This exercise shall be completed within three months from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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