

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937**

**WP(C).No. 10958 of 2015 (T)**  
-----

**PETITIONER(S):**  
-----

1. **BALAJI K.,  
S/O.PADMANABHAN NAIR,  
AGED 44 YEARS,AG-3, MOHANAM,  
AISWARYA GARDENS, ELTHURUTH,  
THRISSUR DISTRICT.**
2. **T.T. THOMAS, S/O.KURIAN THOMAS,  
AGED 49 YEARS, THAYKKAKATHU HOUSE,  
UMAYATTUKARA, KALLISSERY P.O.,  
CHENGANNUR, ALAPPUZHA DISTRICT.**

**BY ADV. SRI.C.M.MOHAMMED IQUABAL**

**RESPONDENT(S):**  
-----

1. **STATE OF KERALA, REP.BY  
THE SECRETARY TO HEALTH DEPARTMENT,  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695 001.**
2. **THE PRINCIPAL SECRETARY,  
DEPARTMENT OF HEALTH,  
GOVERNMENT OF KERALA,  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695 001.**
3. **THE DISTRICT LEVEL AUTHORIZATION COMMITTEE  
FOR TRANSPLANTATION OF HUMAN ORGANS ALAPPUZHA,  
GOVT. T.D.MEDICAL COLLEGE, ALAPPUZHA,  
REP.BY ITS CHAIRMAN, POST ALAPPUZHA, PIN-689 005.**

**BY GOVERNMENT PLEADER SRI.S.ABDUL SALAM**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**mbr/**

**APPENDIX**

**PETITIONER(S)' EXHIBITS:**  
-----

- EXT.P1 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE AMRITHA INSTITUTE OF MEDICAL SCIENCE AND RESEARCH CENTRE, ERNAKULAM DATED 20.03.15.
- EXT.P2 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE ASSISTANT SUPERINTENDENT OF POLICE CHENGANNUR DATED 26.01.2015.
- EXT.P3 - THE TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONERS DATED 02.02.2015.
- EXT.P4 - THE TRUE COPY OF THE IDENTIFICATION CERTIFICATE OF THE PETITIONERS DATED 20.01.2015.
- EXT.P5 - THE TRUE COPY OF THE CONSENT LETTER OF THE 2ND PETITIONER AND HIS WIFE DATED 07.02.2015.
- EXT.P6 - THE TRUE COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED 26.2.2015.
- EXT.P7 - THE TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 30.03.2015.
- EXT.P8 - THE TRUE COPY OF THE LETTER FROM THE DONOR TO THE CHAIRMAN, AUTHORIZATION COMMITTEE FOR ORGAN TRANSPLANTATION.
- EXT.P9 - THE TRUE COPY OF THE AFFIDAVIT OF THE WIFE OF THE 1ST PETITIONER DATED NIL.
- EXT.P10 - THE TRUE COPY OF THE IDENTIFICATION CERTIFICATE OF THE WIFE OF THE 1ST PETITIONER DATED 20.1.15.
- EXT.P11 - THE TRUE COPY OF THE MARRIAGE CERTIFICATE OF THE 2ND PETITIONER DATED 6.1.2015.
- EXT.P12 - THE TRUE COPY OF THE RELEVANT PAGES OF THE RATION CARD OF THE 2ND PETITIONER DATED 24.12.2008.
- EXT.P13 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY THIRUVANVANDDOR VILLAGE OFFICE DATED 21.1.2015.
- EXT.P14 - THE TRUE COPY OF THE AADHAR CARD OF THE 2ND PETITIONER IS PRODUCED.
- EXT.P15 - THE TRUE COPY OF THE ELECTORAL IDENTITY CARD OF THE WIFE 2ND PETITIONER DATED 17.3.2006 IS PRODUCED.
- EXT.P16 - THE TRUE COPY OF THE ELECTORAL IDENTITY CARD OF THE DAUGHTER OF THE 2ND PETITIONER DATED 10.1.2011 IS PRODUCED.

WP(C).No. 10958 of 2015 (T)

- 
- EXT.P17 - THE TRUE COPY OF THE DETAILS IN FORM NO. IC OF THE PETITIONERS DATED 4.1.2012.
- EXT.P18 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY AMRITA INSTITUTE OF MEDICAL SCIENCE DATED 6.2.2015.
- EXT.P19 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY DEPARTMENT OF G.I.SURGERY, AMRITA INSTITUTE OF MEDICAL SCIENCE AND RESEARCH CENTRE DATED 6.2.2015.
- EXT.P720 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY P.C.VISHNUNATH, MLA, CHENGANNOOR DATED 20.1.2015.
- EXT.P21 - THE TRUE COPY OF THE AFFIDAVIT OF THE 2ND PETITIONER DATED 13.1.2015.
- EXT.P22 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY AMRITA INSTITUTE OF MEDICAL SCIENCE DATED 6.2.2015.
- EXT.P23 - THE TRUE COPY OF THE LETTER ISSUED BY AMRITA INSTITUTE OF MEDICAL SCIENCE DATED 6.2.2015.
- EXT.P24 - THE TRUE COPY OF THE AFFIDAVIT BY THE 2ND PETITIONER DATED 13.1.2015.
- EXT.P25 - THE TRUE COPY OF THE AFFIDAVIT OF THE 2ND PETITIONER DATED 13.1.2015.
- EXT.P26 - THE TRUE COPY OF THE AFFIDAVIT OF THE 2ND PETITIONER DATED 13.1.2015.
- EXT.P27 - THE TRUE COPY OF THE AFFIDAVIT OF THE 2ND PETITIONER DATED 13.1.2015.
- EXT.P28 - THE TRUE COPY OF THE AFFIDAVIT OF THE DAUGHTER OF THE 2ND PETITIONER DATED 12.1.2015.
- EXT.P29 - THE TRUE COPY OF THE NATIVITY CERTIFICATE OF THE 2ND PETITIONER DATED 17.1.2015.
- EXT.P30 - THE TRUE COPY OF THE INCOME CERTIFICATE OF THE 2ND PETITIONER DATED 15.1.2015.
- EXT.P31 - THE TRUE COPY OF THE FAMILY MEMBER SHIP CERTIFICATE OF THE 2ND PETITIONER DATED 15.1.2015.
- EXT.P32 - THE TRUE COPY OF THE AFFIDAVIT OF THE 1ST PETITIONER DATED 28.1.2015.
- EXT.P33 - THE TRUE COPY OF THE CONSENT OF THE 1ST PETITIONER DATED 24.1.2015.

WP(C).No. 10958 of 2015 (T)

- 
- EXT.P34 - THE TRUE COPY OF THE LETTER FROM 1ST PETITIONER.
- EXT.P35 - THE TRUE COPY OF THE LETTER OF THE PETITIONERS.
- EXT.P36 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY AMRITA INSTITUTE OF MEDICAL SCIENCE DATED 14.1.2015.
- EXT.P37 - THE TRUE COPY OF THE DECLARATION OF THE 1ST PETITIONER DATED 28.1.2015.
- EXT.P38 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY PULLAZHI VILLAGE OFFICE DATED 30.1.2015.
- EXT.P39 - THE TRUE COPY OF THE BIRTH CERTIFICATE OF THE 1ST PETITIONER DATED 8.5.1998.
- EXT.P40 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY THRISSUR MLA THERAMBIL RAMAKRISHNAN DATED 1.2.2015.
- EXT.P41 - THE TRUE COPY OF THE MARRIAGE CERTIFICATE OF THE 1ST PETITIONER DATED 28.1.2015.
- EXT.P42 - THE TRUE COPY OF THE AFFIDAVIT OF THE 1ST PETITIONER DATED 28.1.2015.
- EXT.P43 - THE TRUE COPY OF THE AFFIDAVIT OF THE 1ST PETITIONER DATED 28.1.2015.
- EXT.P44 - THE TRUE COPY OF THE AFFIDAVIT OF THE 1ST PETITIONER DATED 28.1.2015.
- EXT.P45 - THE TRUE COPY OF THE CERTIFICATE ISSUED BY AMRITA INSTITUTE OF MEDICAL SCIENCE DATED 6.2.2015.
- EXT.P46 - THE TRUE COPY OF THE IDENTIFICATION CERTIFICATE OF THE 1ST PETITIONER AND HIS WIFE DATED 9.1.2015.
- EXT.P47 - THE TRUE COPY OF THE AADHAR CARD OF THE 1ST PETITIONER.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

**P.R. RAMACHANDRA MENON, J.**

-----  
**W.P.(C) No.10958 of 2015**  
-----

**Dated this the 10<sup>th</sup> day of April, 2015**

**JUDGMENT**

Rejection of permission to have the organ transplantation, (liver transplantation) to save the life of the 1<sup>st</sup> petitioner, by the 3<sup>rd</sup> and 2<sup>nd</sup> respondents as per Exts.P6 and P7 orders respectively, is under challenge in this writ petition.

2. The case of the petitioners is that, the 1<sup>st</sup> petitioner is suffering from serious Decompensated Cirrhosis and that there is severe Hepatic Decompensation. The plight of the 1<sup>st</sup> petitioner has already been certified by the Hospital authorities and there is no other alternative, but to effect organ transplantation. It is stated that, proper and suitable liver could not be identified from any of the near relatives. In the meanwhile, the 2<sup>nd</sup> petitioner, who is having close acquaintance with the 1<sup>st</sup> petitioner, came forward, merely because of altruism, to donate a part of his liver so as to save the life of the 1<sup>st</sup> petitioner. It is in the said circumstances, that the petitioners have moved the concerned authorities for appropriate relief, but the same came to be turned

down as per Ext.P7 order, which is sought to be intercepted in the present proceedings.

3. Heard the learned counsel for the petitioners as well as the learned Government Pleader appearing for the respondents.

4. After hearing both the sides and after going through the materials on record, particularly, the documents produced by the petitioners as Exts.P8 to P47 along with I.A. No.5479 of 2015, this Court finds that the petitioners have established the genuineness of the treatment to be availed by the 1<sup>st</sup> petitioner and the immediate requirement to have the organ transplantation. It is also seen that, the 2<sup>nd</sup> petitioner has come forward not as part of any trade or such other commercial activity and that no incriminating circumstances of culpable nature is there, so as to deny the relief to the 1<sup>st</sup> petitioner, who is the patient. It may be true that, some or other minor inconsistency in the statements given by the persons concerned, who were examined by the concerned authorities, might be there. But that by itself cannot be a ground to deny the relief to the patient. The very purpose of the enactment is to see that a measure of protection is given and efforts be taken to save the

life of the patient-the 1<sup>st</sup> petitioner, at the same time acting as a check measure to prevent any commercial dealings in connection with the possible trade of organs. No such instance is established in the present case by virtue of the documents produced.

5. In the said circumstances, this Court finds that the impugned orders have to be set aside. It is ordered accordingly. There will be a direction to the concerned respondent to consider and pass appropriate orders so as to facilitate the organ transplantation based on the documents executed by the petitioners and produced before the concerned authorities. The same shall done at the earliest, considering the seriousness of the ailment being suffered by the first petitioner, at any rate, within 'three weeks' from the date of receipt of a copy of this judgment.

Petitioners shall produce a copy of this judgment, along with a copy of the writ petition, before the concerned respondent, for further steps.

**P.R. RAMACHANDRA MENON,  
JUDGE**

sp