

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAJED MUSTAQUE

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

WP(C).No. 11323 of 2015 (M)

PETITIONER:

FR.JOLLY JOSEPH, AGED 48, S/O.JOSEPH,
RESIDING AT ROSE DALE, KANJIRACODE MURI,
MULAVANA VILLAGE, KOLLAM TALUK 691 501.

BY ADV. FR.JOLLY JOSEPH (PARTY- IN- PERSON)

RESPONDENTS:

1. THE HON'BLE SUPERINTENDENT OF
POLICE (RURAL) OF KOLLAM AT KOTTARAKKARA,
KOTTARAKKARA P.O., PIN 691 301.
2. THE CIRCLE INSPECTOR OF POLICE,
KUNDARA P.O., KOLLAM DISTRICT 691 501.
3. THE SUB INSPECTOR OF POLICE,
KUNDARA POLICE STATION,
KUNDARA PO. 691501, KOLLAM DISTRICT.
4. THE SECRETARY, PERAYAM GRAMA PANCHAYATH,
MULAVANA VIA, PIN 691503, KOLLAM DISTRICT.
5. FR.JAMES PUTHENPURA, S/O.MATHAI, AGED 73, YEARS
FORMERLY VICAR, ST ANTONY'S CHURCH, KANJIRACODE MURI
MULAVANA VILLAGE, KOLLAM TALUK 691 501.
6. K.C.JOSE, S/O.KOCHUKURSU, AGED ABOUT 61,
FORMERLY TRUSTEE, ST ANTONY'S CHURCH,
KANJIRACODE, RESIDING AT KUNNUVILA, EDAKKARA
MULAVANA VILLAGE, KOLLAM TALUK, 691501.
7. FULGIN, AGED ABOUT 61, S/O.MARIAN,
FORMERLY EXECUTIVE COMMITTEE MEMBER,
ST.ANTONY'S CHURCH, RESIDING AT VIRGIN DALE
PANAYAMKODU MURI, MULAVAN VILLAGE,
KOLLAM TALUK 691 501.

8. PIOUS, AGED 70, S/O.ANTONY,
FORMERLY EXECUTIVE COMMITTEE MEMBER,
ST.ANTONY'S CHURCH, RESIDING AT CHARUVILA
PUTHEN VEEDU, KANJIRACODE MURI,
MULAVANA VILLAGE, KOLLAM TALUK 691 501.

9. J.JOHNSON, CONTRACTOR, AGED 55,
S/O.JOSEPH CHAZHIKKADAN, POOKOLY,
KOTTAKKAM, KANJIRACODE MURI,
MULAVANA VILLAGE, KOLLAM TALUK 691 501.

10. JAYAN, AGED 37, S/O.JOSEPH, RESIDING AT
ROSE DALE, KANJIRACODE MURI,
MULAVANA VILLAGE, KOLLAM TALUK 691 501.

R4 BY ADV. SRI.T.KAJITHKUMAR (VALATH)
R5 BY ADV. SRI.JOHN JOSEPH VETTIKAD
R5 BY ADV. SRI.C.JOSEPH JOHNY
BY GOVERNMENT PLEADER SRI. MANOJ KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 - THE TRUE COPY OF THE PLAINT IN OS 45/2012
- EXHIBIT P2 - THE TRUE COPY OF INJUNCTION ORDER IN IA NO.304/2012 IN OS 45/2012
- EXHIBIT P3 - TRUE COPY OF RESOLUTION OF CHURCH FINANCE COMMITTEE ALLOWING THE PETITIONER HIS INGRESS AND EGRESS
- EXHIBIT P4 - TRUE COPY OF COMMISSION APPLICATION IA NO.2387/13
- EXHIBIT P5 - TRUE COPY OF ORDER DATED 29.11.2015 IN COMMISSION APPLICATION 2387/13
- EXHIBIT P6 - TRUE COPY OF JUDGEMENT DATED 30.1.15 IN OPC 2966/2014
- EXHIBIT P7 - TRUE COPY OF ADVANCE PETITION NO.872/15
- EXHIBIT P8 - TRUE COPY OF COMPLAINT DATED 12.3.2015 TO POLICE & POLICE RECEIPT FOR IT DATED 12.3.15
- EXHIBIT P9 - TRUE COPY OF THE COMPLAINT DATED 20.3.2015 TO SP OF KOLLAM AND ITS RECEIPT DATED 20.3.2015
- EXHIBIT P10 - TRUE COPY OF ADVANCE PETITION NO.1409/15
- EXHIBIT P11 - TRUE COPY OF MEMO DATED 16.3.2015 FOR SENDING THE ALREADY ALLOWED COMMISSION
- EXHIBIT P12 - TRUE COPY OF IA NO.1614/15 FOR MANDATORY INJUNCTION
- EXHIBIT P13 - ONE COLOUR PRINT SHOWING VIOLATION OF INJUNCTION ORDER
- EXHIBIT P14 - TRUE COPY OF COMPLAINT OF PETITIONER DATED 12.3.15 TO GRAMA PANCHAYATH & ITS RECEIPT DATED 12.3.15

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

ncd

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 11323 of 2015

Dated this the 30th day of November, 2015

J U D G M E N T

Petitioner approached this Court with the following

reliefs:-

- “1. This Hon'ble Court may pass an order directing the Rural S.P. Of Kollam at Kottarakkara and or the SHO of Kundara Police to put a new key to the St.Antony's H.S. Main Caste Iron Gate by providing one key each to the petitioner for the ingress and egress and to the respondents 5-9 herein.
2. It is respectfully prayed that this Hon'ble Court may be pleased to pass an order directing the Perayam Grama Panchayath to consider Ext.P14 and to demolish the illegally built school compound wall of St.Antony's H.S. And H.S.S. on their eastern premises.
3. It is respectfully prayed that this Hon'ble Court may pass an order directing the Grama Panchayath to demolish the illegally built play-ground of St.Antony's High School made of concrete within a stipulated time as fixed by this Hon'ble Court”

The essential grievance of the petitioner is that additional Munsiff

failed to comply with the direction of this Court in the judgment in O.P(C) No.2966 of 2014, regarding local inspection and making commission report. It is also contended that party respondents have violated the injunction order passed in O.S.No.45 of 2012. It is further submitted that the school compound wall of St.Antony's H.S. and H.S.S. will have to be demolished. It is further sought that a direction may be issued to the Rural S.P., Kollam to put a new key to the St.Antony's H.S. Main Caste Iron Gate by providing one key each to the petitioner for the ingress and egress and to the respondents 5-9 herein.

2. The challenge regarding any violation of the interim order passed by the Munsiff Court has to be raised before the court where the case is pending. This Court cannot interfere with the issue as the petitioner has efficacious remedy before the civil court where the suit is pending.

3. It is contended by the respondents that they have

constructed the compound wall with a valid permit issued by the Grama Panchayath. That being so, it is open for the petitioner to challenge the building permit issued by the Panchayath in appropriate manner. It is also open for the petitioner to bring to the notice of the Panchayath if any illegal construction is carried out by the party respondents. If such complaint is raised, certainly Panchayath shall consider the same without any delay.

Therefore, with liberty to the petitioner to seek appropriate remedy as above, this writ petition is dismissed.

A.MUHAMED MUSTAQUE,
Judge

MBS/

