

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).NO. 15336 OF 2012 (N)

PETITIONER:

ABDUL NASAR, AGED 30 YEARS,
S/O.AHAMMED HAJI, POOLAKKAL HOUSE, P.O.ANTHIYOORKUNNU,
MALAPPURAM DISTRICT.

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT:

THE PULIKKAL GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, PULIKKAL.P.O.,
MALAPPURAM DISTRICT PIN-673637

BY ADV. SRI.T.R.RAVI

BY ADV. SRI.P.S.MURALI

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

WP(C).NO. 15336 OF 2012 (N)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 TRUE COPY OF THE ASSIGNMENT DEED DATED 05-05-2012
EXT.P2 TRUE COPY OF THE BASIC TAX RECEIPT DATED 17-05-2012
EXT.P3 TRUE COPY OF THE NOTICE DATED 22-06-2012 ISSUED BY THE
 RESPONDENT PANCHAYATH

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No.15336 of 2012

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Dated this the 11th day of November, 2015

J U D G M E N T

The Petitioner is aggrieved by Exts.P3 Stop Memo, issued by the respondent herein. The grievance of the petitioner is that he has purchased 1.15 cents of land, by Ext.P1 sale deed and started construction of a building, in accordance with the building permit issued to the previous owner of the said property. Now, the construction of the building is almost completed, as per the said approved plan issued to the predecessor-in-interest of the property. While so, the respondent issued Ext.P3 order, directing the petitioner to stop the construction and to demolish the unauthorised construction, within seven days from the date of receipt

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of the notice.

2. The learned Standing Counsel for the respondent submits that the respondent filed a counter affidavit, stating that the predecessor-in-interest of the property has got a building permit, for constructing a shop room and in violation of the said building permit, the petitioner has constructed a double storied building. In that circumstance, the respondent has issued Ext.P3 notice, directing the petitioner to stop the construction and also, to remove the unauthorised construction, which he had already made. It is also stated that Ext.P3 Stop Memo was issued, without hearing the petitioner, considering the urgency of the matter and that the construction has reached up to the ceiling level of the 1st floor. The respondent fairly submitted that further proceedings will be initiated, only after giving an

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opportunity of being heard to the petitioner and Ext.P3 notice therefore, can be taken as withdrawn in so far as it relates to demolition of the unauthorised construction.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. Going by the counter affidavit and submissions made at the Bar by the learned counsel for the respondent, it is seen that the respondent himself admitted that no further action will be taken, without affording an opportunity of being heard to the petitioner. In view of the above submission, I find that no order need be passed in this matter. It is made clear that the respondent shall proceed against the petitioner, only after affording an opportunity of being heard to the petitioner and the same will be done, within a period of two months from the date of production of a copy of this

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judgment, if the petitioner was not already heard in this matter.

This Writ Petition is disposed of accordingly.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge