

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 11890 of 2015 (I)

PETITIONER(S)/PETITIONER:

BRAHMANA SAMOOHAM,
REG NO A 171/98, CHERTHALA, ALAPPUZHA
PIN-688524, REP BY ITS SECRETARY K KANNAN

BY ADV. SRI.B.PRAMOD

RESPONDENT(S)/RESPONDENTS:

1. CHERTHALA MUNICIPALITY
MUNICIPAL OFFICE, CHERTHALA, REP. BY ITS SECRETARY
PIN-688 524
2. THE SECRETARY
CHERTHALA MUNICIPALITY, MUNICIPAL OFFICE, CHERTHALA
PIN-688 524

R BY SRI.JOBY CYRIAC,SC,CHERTHALA MUNICIPALITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 11890 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:-TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED TO THE PETITIONER

P2:-TRUE COPY OF THE TAX RECEIPT FOR THE FINANCIAL YEAR 2014-2015

P3:-TRUE COPY OF THE LOCATION SKETCH OF THE PROPERTY PREPARED BY THE
VILLAGE OFFICER

P4:-TRUE COPY OF THE BUILDING PERMIT WITH APPROVED PLAN

P5:-TRUE COPY OF THE JUDGMENT DTD 27/3/2015 IN WPC NO 30678/2014

P6:-TRUE COPY OF THE PLAINT IN OS NO 742/2014 BEFORE THE MUNSIFF'S COURT
CHERTHALA

P7:-TRUE COPY OF THE ROUGH SKETCH SUBMITTED BY THE ADVOCATE
COMMISSIONER IN OSNO 742/2014 BEFORE THE MUNSIFF'S COURT,
CHERTHALA

P8:-TRUE COPY OF THE ORDER DTD 18/11/2014 ISSUED BY THE 2ND RESPONDENT

P9:-TRUE COPY OF THE LOCATION SKETCH SHOWING THE POSITION OF THE OPEN
AIR STAGE CONSTRUCTED BY THE RESPONDENTS

P10:-TRUE COPY OF THE PHOTOGRAPHS

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.11890 of 2015

Dated this the 12th day of October, 2015

J U D G M E N T

The right of the first respondent Municipality to construct an open area stage at the place in question is concluded by Ext.P5 judgment. At the same time, the petitioner has also every right to enjoy his property lying opposite.

2. The right of the petitioner either to fence his property or to construct a compound wall along its boundary cannot be obstructed. The petitioner can secure his property by appropriate means to prevent the audience from entering into his property.

3. Ext.P8 order of the first respondent Municipality directing demolition of the fence put up by the petitioner is quashed. The respondents can take action only if the petitioner has encroached into any property beyond his boundary.

4. The right of the respondents to acquire the property of the petitioner if needed is also left open. But the enjoyment of the property by the

petitioner cannot be hindered so long as he has title and possession.

The writ Petition is allowed. No costs.

Sd/-
V.CHITAMBARESH,
Judge.

nj/12.10.15