

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

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

WP(C).No. 12450 of 2015 (E)

PETITIONER:

AHAMMED THOTTUNGAL, ROOM NO.5
(OLD JANASEVANA KENDRAM),
MOFUSAL BUS STAND, I.G. ROAD,
KOZHIKODE.

BY ADVS. SRI.T.SETHUMADHAVAN (SR.)
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON
SMT.N.DEEPA

RESPONDENT:

CORPORATION OF CALICUT
REP. BY ITS SECRETARY,
KOZHIKODE.

BY ADV. SRI.P.V.SURENDRANATH
SRI.K.D.BABU

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

APPENDIX IN WPC 12450/2015

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF LICENCE AGREEMENT DATED 5.1.2012

EXT. P2 TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT CORPORATION DATED 20.8.2014

EXT. P2(a) TRUE COPY OF ENGLISH TRANSLATION OF XT. P2

EXT. P3 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 31.01.2014

EXT. P3(a) TRUE COPY OF ENGLISH TRANSLATION OF EXT. P3

EXT. P4 TRUE COPY OF THE COMMUNICATION ISSUED BY RESPONDENT CORPORATION DATED 26.05.2014

EXT. P4(a) TRUE COPY OF ENGLISH TRANSLATION OF EXT. P4

EXT. P5 TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT UNDER SECTION 215(8) OF THE KERALA MUNICIPALITY ACT 1994

EXT. P5(a) TRUE COPY OF ENGLISH TRANSLATION OF EXT. P5

EXT. P6 TRUE COPY OF THE APPEAL SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT CORPORATION DATED 06.04.2015

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.12450 of 2015 E

Dated this the 10th day of April, 2015

JUDGMENT

The petitioner, being the successful bidder, had a vacant hall having 3000 sq.ft. area taken on monthly lease for the purpose of starting a dormitory.

2. Though the agreement was entered into in 2012, it is the contention of the petitioner that necessary facilities were provided only in 2014. When the respondent Corporation demanded rents for the period beginning from 2012, having remitted part of the amount, the petitioner is said to have submitted Exhibit P6 statutory appeal before the Council of the respondent Corporation.

3. Ventilating his grievance that before Exhibit P6 statutory appeal is considered, the respondent Corporation is taking coercive steps to realise the rental arrears, the petitioner has approached this Court.

4. It is not clear from the record whether the petitioner has also filed any stay petition along with the statutory appeal. At any rate, it is not in dispute that Exhibit P6 statutory appeal is pending before the Council of the respondent Corporation. It meets the ends of justice if the appellate authority of the respondent Corporation considers petitioner's Exhibit P6 statutory appeal and passes appropriate orders expeditiously. It is also in the interest of justice, if the respondent Corporation does not take recourse to any coercive steps before the appeal is disposed of.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel, this Court, without expressing any opinion on the merits of the matter, disposes of the writ petition with a direction to the appellate authority - the Council of the respondent Corporation - to

consider Exhibit P6 statutory appeal of the petitioner, in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment. In the meanwhile, the respondent Corporation shall not take recourse to any coercive steps concerning recovery of the rental arrears.

Dama Seshadri Naidu, Judge

tkv