

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 12658 of 2015 (F)

PETITIONER(S):

1. RAJESH KUMAR R.S., AGED 40 YEARS,
S/O. RAMAKRISHNAN NAIR,
ALTHARA NAGAR RESIDENTS ASSOCIATION B STREET,
NO.24, T.C. 15/268-1, SASTHAMANGALAM P.O.,
THIRUVANANTHAPURAM.
2. UDAYAN N., AGED 42 YEARS,
S/O. N. NARAYANAN NAIR, T.C. 15/111, B STREET-48,
ALTHARA NAGAR RESIDENTS ASSOCIATION,
SASTHAMANGALAM PO, VELLAYAMBALAM,
THIRUVANANTHAPURAM.
3. T.M. ANAND, AGED 55 YEARS, S/O. T.M. SWAMI,
T.C. 9/2729, CSM NAGAR, H NO. 254,
SASTHAMANGALAM P.O., VELLAYAMBALAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.THIRUMALA P.K.MANI

RESPONDENT(S):

1. HORIZON PARKS APARTMENT OWNERS ASSOCIATION,
HORIZON PARKS APARTMENT, VELLAYAMBALAM,
THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY,
SRI.C.M. HARSHAN - 695 001.
2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF WATER RESOURCES,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695001.
3. ASSISTANT EXECUTIVE ENGINEER,
SEWAGE SUB DIVISION (NORTH),
KERALA WATER AUTHORITY, PATTOOR,
THIRUVANANTHAPURAM - 695024.

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4. CORPORATION OF THIRUVANANTHAPURAM,
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM-695 033,
REPRESENTED BY ITS SECRETARY.

R1 BY ADVS. SRI.BECHU KURIAN THOMAS

SRI.PAUL JACOB (P)

R2 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

R3 BY SRI.JOSEPH JOHN, SC

R4 BY SRI.P.K.MANOJKUMAR,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE PHOTOCOPY OF THE PLAN AND SKETCH SUBMITTED BY THE
1ST RESPONDENT BEFORE THE 3RD RESPONDENT.
- EXT.P2: TRUE PHOTOCOPY OF THE LETTER DATED 26.5.2014 ISSUED BY THE
3RD RESPONDENT TO THE 4TH RESPONDENT.
- EXT.P3: TRUE PHOTOCOPY OF THE JUDGMENT DATED 27.2.2015 IN WRIT
PETITION NO.5211/2015 OF HON'BLE HIGH COURT OF KERALA.
- EXT.P4: THE MEMORANDUM OF THE UNNUMBERED REVIEW PETITION WITH
PETITION FOR LEAVE TO FILE THE REVIEW PETITION IA NO.183/2015.
- EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 04.4.2015 SUBMITTED
BY THE 1ST PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C).No.12658/2015

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Dated this the 8<sup>th</sup> Day of October, 2015

**J U D G M E N T**

The petitioner has approached this Court with the following reliefs :

i) To issue a Writ of Mandamus or any other appropriate Writ or Order commanding the respondents 2 to 4, not to lay drainage pipe of the 1<sup>st</sup> respondent through the 'B' Street of Althara Nagar Residents Association and connect it to the drainage pipe laid in CSM Nagar, Jan Villa Nagar Road at Sasthamangalam, Thiruvananthapuram.

ii) To issue a writ of certiorari or any other appropriate writ or order quashing the Ext.P1 plan.

iii) Such other reliefs as this Hon'ble Court deem fit and proper in the nature and circumstances of the case."

2. The essential issue in this writ petition is about laying of a sewage pipe by the 1<sup>st</sup> respondent through the 'B' Street of Althara Nagar Residents Association and connecting it with the drainage pipe laid in CSM Jan Villa Residents Association Road.

3. In fact, the 1<sup>st</sup> respondent is laying pipes pursuant to the direction of this Court in W.P.(C).No.5211/2015 after obtaining permission from the Corporation to cut open the road to enable the 1<sup>st</sup> respondent for laying the pipes.

4. The first respondent was granted permission by the third respondent-Assistant Executive Engineer by Ext.P2 to connect their sewage pipe to the sewage pipe laid in CSM Jan Villa Residents Association Road. The learned counsel for the petitioners submits that this was ordered without considering technical feasibility. The petitioners highlighted their grievance in Ext.P5. According to the petitioners, consent from the Councillor as well as the owners is also required. It is further pointed out that if connection is given, there will be overflow of waste water through the closet due to the overload of existing sewage pipe.

5. This Court is of the view that except the grievance highlighted by the petitioner that there will be an overflow, the other issues regarding the consent required from the Councillor and that of the owners need not be considered by the third respondent. The issue regarding consent from the Councillor is already in favour of the first respondent by the judgment dated 27/02/2015 in W.P.(C).No.5211/2015. Therefore, the

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complaint regarding overflow of waste water should be considered in order to avert any possible overflow from the connection to be made by the first respondent to the sewage connection. Such a decision shall be taken by the third respondent after hearing the petitioner and the first respondent within two weeks.

The writ petition is disposed of as above. No costs.

**Sd/-**

**A.MUHAMED MUSTAQUE, JUDGE**

bpr/ms