

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 13296 of 2015 (J)

PETITIONER(S) :

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1. K.A.SIDDIQUE,
AGED 47 YEARS, S/O.LATE ABOOBACKER,
RESIDING AT DOOR NO.CC.5/380,
BANGLAWPARAMBU MATTANCHERRY.
 2. K.A.SAKEENA,
AGED 50 YEARS, D/O.LATE ABOOBACKER,
RESIDING AT DOOR NO.CC.5/380,
BANGLAWPARAMBU MATTANCHERRY.
 3. K.A.SHARMILA,
AGED 42 YEARS, D/O.LATE ABOOBACKER,
RESIDING AT DOOR NO.CC.5/380,
BANGLAWPARAMBU MATTANCHERRY.
 4. K.A.JALEEL,
AGED 47 YEARS, S/O.LATE ABOOBACKER,
RESIDING AT DOOR NO.CC.5/380,
BANGLAWPARAMBU MATTANCHERRY.
 5. K.A.SAHIDA,
AGED 47 YEARS, D/O.LATE ABOOBACKER,
RESIDING AT DOOR NO.CC.5/380,
BANGLAWPARAMBU MATTANCHERRY.

BY ADVS.SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.P.U.VINOD KUMAR
SRI.KANDAMPULLY RAHUL
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR.

RESPONDENT(S) :

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1. SECRETARY,
CORPORATION OF KOCHI, ERNAKULAM-682 030.
 2. SMT.BULKEEZ JALAL,
(WORKING IN COCHIN PORT TRUST) W/O.JALAL,
DOOR NO.5/378, MATANCHERRY, COCHIN - 2.

Contd...

3. MUHAMMED SAFAR,
S/O.SAKARIA, DOOR NO.CC.6/2370, PANAYAPPALLY,
KOCHI, (MANAGING TRUSTEE,
HAJI AHAMMED IBARAHIM SAIT TRUST), PIN-682 011.
4. TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

R1 BY SRI.E.D.GEORGE, SC, COCHIN CORPORATION,
R2 BY ADV. SRI.T.C.SURESH MENON,
R2 BY ADV. SRI.P.S.APPU &
BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT P1 : A TRUE COPY OF THE FINAL ORDER DATED 8-5-2012 ISSUED BY THE KOCHI CORPORATION UNDER SECTION 406 OF THE KERALA MUNICIPALITY ACT DIRECTING TO DEMOLISH THE UNAUTHORIZED CONSTRUCTION.

EXT P2 : A TRUE COPY OF THE RELEVANT PORTION OF THE PROCEEDINGS OF THE ADDITIONAL SECRETARY OF THE KOCHI CORPORATION DATED 15-4-2013.

EXT P3: A TRUE COPY OF THE MEMORANDUM OF APPEAL IN APPEAL NO.506/2013 ON THE FILE OF THE HON'BLE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

EXT P4 : A TRUE COPY OF THE ORDER OF STAY DATED 31-5-2013 IN IA.NO.979/2013 IN APPEAL NO.506/2013 OF THE HON'BLE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

EXT P5 : A TRUE COPY OF THE ORDER DATED 14-6-2013 OF THE 1ST RESPONDENT STAYING ALL FURTHER CONSTRUCTION ACTIVITIES.

EXT P6 : A TRUE COPY OF THE RESTORATION PETITION -IA NO. /2015 IN APPEAL NO.506/2013 OF THE HON'BLE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 13296 of 2015

Dated this the 28th day of May, 2015

J U D G M E N T

This writ petition is for a direction to the Tribunal for Local Self Government Institutions to pass appropriate orders on Ext.P6 application within a time frame.

2. The petitioner alleges that the 2nd respondent started construction of a building without obtaining a building permit and in violation of the Kerala Municipality Building Rules, protruding into the adjacent small residential building belonging to the petitioners. As evident from Ext.P1, the corporation issued final orders under Section 406 of the Kerala Municipality Act to demolish the same, including the portion protruding into the residential building of the petitioners; and as per Ext.P5, the corporation also stayed further construction activities. Unfortunately, Appeal No.506/2013 was dismissed for default on 10.04.2015 and the restoration application is pending. The petitioner alleges that taking advantage of the same, the 2nd respondent is attempting to continue the construction protruding into the residential building of the

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petitioners. As the restoration petition is pending consideration, the petitioner has approached this Court.

3. Arguments have been heard.

4. As the limited prayer in this writ petition is only for a direction to the Tribunal for a speedy disposal of Ext.P6 petition, this Court is of the view that the writ petition can be disposed of directing the Tribunal to consider and pass appropriate orders on Ext.P6 restoration application within a time frame.

Therefore, the writ petition is disposed of directing the Tribunal to consider and pass appropriate orders on Ext.P6 restoration application within a period of two months from the date of receipt of a copy of this judgment.

Till the restoration petition is disposed of by the 4th respondent, the 2nd respondent shall abstain from making further construction of the building, which is the subject matter of Appeal No.506/2013.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-