

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WP(C).No. 21050 of 2007 (E)

PETITIONER(S) :

V. BASHKARAN,
S/O. RAMOOTY, JISNA NIVAS,
P.O. ERUVATTY, KADIROOR,
KANNUR DISTRICT.

BY ADV. SRI.M.P.VIJAYAN.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY SECRETARY, REVENUE DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR,
KANNUR DISTRICT.
3. THE CHAIRMAN,
KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION,
KAVADIAR, THIRUVANANTHAPURAM.
4. THE EXECUTIVE ENGINEER,
P.W.D. ROAD DIVISION, KANNUR.
5. THE ASSISTANT ENGINEER,
P.W.D.ROAD DIVISION, KOOTHUPARAMBA, KANNUR DISTRICT.
6. P.C. SAFOORA,
D/O. ABDUL KHADER, POOKOTH CHEVITUKULATHIL HOUSE,
NARAVOOR P.O., KOOTHUPARAMBA, KANNUR DISTRICT.

R3 BY ADV. SRI.JOBY CYRIAC, SC, KSIDC,
R7 BY ADV. SRI.K.V.PAVITHRAN,
BY GOVERNMENT PLEADER SRI.S.JAMAL &
BY SRI.M.PATHROS MATHAI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE LEASE DEED EXECUTED BY THE PETITIONER.

EXHIBIT-P2: TRUE COPY OF THE LEASE DEED EXECUTED BY THE PETITIONER TO 6TH RESPONDENT DATED 06/07/2002.

EXHIBIT-P3 (A) & (B) : TRUE COPIES OF THE RECEIPTS LICENSE FEE DATED 22/03/2003 AND PROFESSIONAL TAX PAID BY PETITIONER.

EXHIBIT-P4: TRUE COPY OF THE ORDER DATED 19/02/2004 R.D.O., THALASSERY.

EXHIBIT-P5: TRUE COPY OF THE REPRESENTATION 07/10/2005 BY THE PETITIONER BEFORE R2, R3 AND R5.

EXHIBIT-P6: TRUE COPY OF THE LETTER DATED 02/11/2005 BY THE R5 TO THE PETITIONER.

EXHIBIT-P7: TRUE COPY OF THE LETTER DATED 18/11/2005 BY THE PROJECT ENGINEER KSIDC TO THE PETITIONER.

EXHIBIT-P8: TRUE COPY OF THE REPRESENTATION DATED 06/01/2006 BY THE PETITIONER R2.

EXHIBIT-P9: TRUE COPY OF THE LETTER DATED 19/05/2006 BY THE R3 TO THE PETITIONER.

RESPONDENT(S) ' EXHIBITS :

EXHIBIT-R3 (A) : TRUE COPY OF THE LETTER DATED 08/11/2005 ISSUED BY SRI.MUHAMMED MANSOOR TO SENIOR PROJECT ENGINEER, KANNUR.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

W.P.(C) No. 21050 of 2007 (E)

Dated this the 22nd day of May, 2015

J U D G M E N T

Neither the petitioner's counsel nor any of the counsel of the respondents, except the learned Government Pleader, is present for hearing of the matter.

2. The petitioner, allegedly a tenant of the building bearing nos. 3/5 and 3/6 of Koothuparamba Municipality, was before this Court claiming release of one of the shop rooms bearing no.3/6 to the petitioner who was in occupation as a tenant. Admittedly, the said buildings were acquired by the State on behalf of the 3rd respondent. The apprehension of the petitioner is that one of the shop rooms, bearing no.3/6, having not been demolished, the petitioner, as tenant, should be put in possession of the same and any attempt to surrender the same to the 6th respondent would prejudicially affect the rights of the petitioner as a tenant.

3. The learned Government Pleader submits that acquisition was made and the property acquired along with the building had been handed over to the Kerala State Industrial Development Corporation (hereinafter referred to as 'KSIDC' for short).

4. A counter affidavit has been filed by the KSIDC in which it is stated that the entire building was taken over by the Government on behalf of the KSIDC and compensation was paid to the 6th respondent - the owner of the property. The KSIDC had also engaged a contractor to demolish the building and on a complaint being received, it was revealed that one of the shop rooms was not demolished. The reason stated, as is evident from Ext.R3(a), the communication addressed to the KSIDC by the contractor, is the objection raised by the 6th respondent.

5. The 6th respondent, having obtained compensation for the entire building, cannot claim any right over the building nor can it be said to be in occupation of the 6th

respondent. The facts being so, the petitioner as tenant also does not have any right over the building. Hence, if at all, a building exists in the property as of now, which has been acquired by the 3rd respondent through the State, and compensation having been paid to the 6th respondent, the fate of the same shall be at the option of the 3rd respondent.

The Writ Petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE