

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 14791 of 2014 (Y)

PETITIONER(S)/PETITIONERS:

**C.VALLIAMMA,
RESIDING AT TC.26/1179, HOUSE NO.303, RAJAJI NAGAR
PULIMOODU.P.O, TRIVANDRUM-695001.**

BY ADV. SMT.S.SUJINI

RESPONDENT(S)/RESPONDENTS:

**1. STATE OF KERALA
REPRESENTED BY THE ADDITIONAL SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM-695001.**

**2. THE DISTRICT COLLECTOR,
DISTRICT COLLECTORATE, THIRUVANANTHAPURAM-695001.**

**Addl.3. THE SECRETARY
TRIVANDRUM CORPORATION, TRIVANDRUM.**

**Addl.4. R.HARIKUMAR (COUNCILLOR, THAMPANOR WARD)
TC 26/1619, RAM NIVAS, G.P.O.
THIRUVANANTHAPURAM - 695 001.ADDL.**

R3 & R4 ARE IMPEADED AS PER ORDER DATED 03/09/2014 IN IA 11914/2014.

**R3 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
R3 BY ADV. SRI.P.K.MANOJKUMAR,SC,TVPM CORPORATION
R1-R2 BY ADV. GOVERNMENT PLEADER SRI.JOSEPH GEORGE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-04-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 14791 of 2014 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 COPY OF THE JUDGMENT DATED 05.10.2010 IN WP(C)30429/2010

EXT.P2 COPY OF THE JUDGMENT DATED IN WP(C) 13337/2012.

EXT.P3 COPY OF THE JUDGMENT DATED 01.04.2013 IN WP(C)5480/2013.

EXT.P4 COPY OF THE COMPLIANCE ORDER DATED 27.06.2013

EXT.P4 COPY OF THE TAX RECEIPT IN RESPECT OF LEASED LAND DATED 17.02.2014

EXT.P5 COPY OF THE TAX RECEIPT IN RESPECT OF LEASED LAND DATED 17.02.2014

EXT.P6 COPY OF THE PETITIONER'S REPRESENTATION DATED 19.02.2014

**EXT.P7 COPY OF THE LETTER ADDRESSED TO THE SUB-INSPECTOR OF POLICE
DATED 23.02.2014**

EXT.P8 COPY OF THE NOTICE DATED 19.03.2014 SENT TO THE PETITIONER

**EXT.P9 COPY OF THE REPRESENTATION BEFORE THE 2ND RESPONDENT DATED
29.04.2014.**

**EXT.P10 COPY OF THE REPRESENTATION BEFORE THE 2ND RESPONDENT DATED
29.05.2014.**

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

PA TO JUDGE

Imp

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 14791 of 2014

Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- “A. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to give necessary security to the Petitioner for construction and to run the shop as their only means of livelihood had been deprived by the inaction from the part of the respondents.*
- B. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st and 2nd respondents to consider the Exhibit P6, P9, P10 representations and direct the 2nd respondent to order non-interference by the Councillor of Thampanoor Ward and his party men, with regard to the Petitioner's leased land.*
- C. Grant such other reliefs as this Hon'ble Court deems fit and proper in the circumstances of this case, regarding the assignment of land to the petitioners for their livelihood or any other appropriate remedy in the interest of justice.”*

2. A counter affidavit has been filed on behalf of the respondents 1 and 2; paragraph 2 to 8 are relevant which are extracted below:

- 2. It is respectfully submitted that, the petitioner had been running tea shop at Chenkalchoola in Thycaud village. The*

shop was demolished as part of road widening process. Against this, the petitioner filed WP(C) 13337/12 before this Hon'ble Court and this Hon'ble Court vide judgment dated 19/06/12, directed the petitioner to file a representation pointing out the plots which are available for assignment and directing the District Collector to take action within 2 months on receipt of such representation.

- 3. Accordingly, she filed representation pointing out 5 plots in Thiruvananthapuram city. On enquiry about these plots, it was revealed that these plots cannot be assigned as per rules since they do not fall under the category of revenue puramboke.*
- 4. Later on, the Tahsildar, Thiruvananthapuram forwarded a proposal for allotting an extent of 64 sq. meters of land comprised within 4.33 Ares of land in Re.sy.74 in Thycaud village on lease, for constructing a shop. Accordingly the petitioner was informed for submitting application for lease in the prescribed form. Aggrieved by this the petitioner filed WP(C) 5480/13 before this Hon'ble Court.*
- 5. It is submitted that, as per the judgment in WP(C) 5480/13, the petitioner was called for a hearing and orders were issued directing the petitioner to submit application for lease in Form 5 and to enter into agreement as per lease rules and accordingly, lease rent was remitted.*
- 6. But when the petitioner started constructing shop in the allotted place, the same was objected by the Councilor, Thampanoor ward and the petitioner complained the matter to the District Collector on 14/02/2014. The complaint was forwarded to the Sub Inspector, Cantonment for necessary action as per rules and to report. At the same time, on the basis of the written complaint by the petitioner and the Councilors of Vazhuthacaud ward were*

called for a hearing. Councilor did not turn up.

- 7. It is submitted that, even though it is mentioned in the writ petition, that the petitioner has submitted copies of Ext.P9 and P10, the same are not seen received in this office.*
- 8. It is also submitted that steps are already underway to assign an alternate accommodation to the petitioner. The Tahsildar has been addressed to find out suitable place for granting lease to the petitioner, instead of the site already granted. The Government is considering plans for the development of the area, at the same time accommodating small businessmen like the petitioners, by providing them shop room on rent basis, as part of the rehabilitation programme for the Chenkalchoola Colony.*

3. After hearing both the sides, the writ petition is disposed of, directing the concerned respondent/competent authority to finalize the proceedings as stated in the counter affidavit. The proceedings as above, shall be finalised, after affording an opportunity of hearing to the petitioner and the additional respondents 3 & 4, at the earliest, at any rate, within 'three months' from the date of receipt of a copy of the judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.