

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 15639 of 2015 (D)

PETITIONER(S) :

A N NOUSHAD,
AGED 42 YEARS, S/O. LATE T.P.AHAMED,
RASEENA'S, PATTUVATHERU,
VALAPATTANAM, KANNUR.

BY ADVS.SRI.M.RAMESH CHANDER (SR.),
SRI.ANEESH JOSEPH &
SMT.DENNIS VARGHESE.

RESPONDENT(S) :

KANNUR MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
KANNUR.

BY ADV. SRI.K.K.CHANDRAN PILLAI (SR.) &
BY ADV. SRI.ARUN ANTONY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1 - PHOTOSTAT COPY OF THE LEGAL HEIR SHIP CERTIFICATE OF
SRI.T.P.AHAMED.

EXT. P2 - PHOTOSTAT COPY OF THE POWER OF ATTORNEY.

EXT. P3 - A PHOTOSTAT COPY OF THE APPLICATION FILED BY ALL THE
LEGAL HEIRS OF SR.T.P.AHAMED D.T 05.11.13.

EXT. P4 - THE PHOTOSTAT COPY OF THE ISSUED BY RESPONDENT
MUNICIPALITY DT. 22.1.15.

EXT. P5 - A PHOTOSTAT COPY OF THE REPLY GIVEN BY PETITIONER TO THE
RESPONDENT MUNICIPALITY DT. 07.2.15.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J

WPC No.15639 of 2015

Dated this the 15th day of June, 2015

JUDGMENT

Aggrieved by the inaction on the part of the respondent Municipality in not considering the petitioner's application, the petitioner has come up before this Court.

2. The petitioner is the power of attorney holder of the legal heirs of late Sri.T.P.Ahamed who was a licensee of a room in the Jawahar Stadium Complex, Kannur. The said building is under the ownership of the respondent Municipality. Sri.T.P.Ahamed expired on 25.6.2009. The legal heirs of Sri.T.P.Ahamed had given a power of attorney in favour of the petitioner for applying for change of license in the Municipality. On the basis of the said power of attorney and the joint application filed by the legal heirs, the petitioner sought allotment of license for Room

No.75 in the name of the petitioner. The respondent Municipality is not considering the petitioner's application pending before the Municipality from the year 2013 for trivial reasons; it is alleged. It is with this background, the petitioner has come up before this Court.

3. The respondent Municipality has filed a statement contending as follows:

The room in question is Room No.75 in Jawahar stadium Shopping Complex which was granted on lease to T.P.Ahemed who is the father of the petitioner. Ahemed died on 25.6.2009. This was not informed to the Municipality. Even thereafter the room was being unauthorisedly possessed by Smt.Lathika on the basis of the sub lease granted even prior to the death of the petitioner's father; it is alleged.

Without noticing the death, the license was renewed from 1.4.2010 to 31.3.2013. License fee as per the renewed rate was not paid to the

Municipality. License was granted in 2007 up to 2010 for conducting a travel agency and after 2010, the agreement was not renewed in spite of repeated requests. Agreement was not executed and renewed license fee was not paid; it is contended. On the basis of the enquiry subsequently conducted by the Municipality through its Revenue Inspector, it was reported that the room is sub leased to one Lathika and she is in possession of the premises. Thereafter notice was issued to the petitioner when he has submitted an application for change of license in his name on the basis of a power of Attorney executed by the legal representative of deceased licensee. On the basis of the application, further enquiry was conducted and the Revenue Inspector by his report dated 1.11.2014 informed that Lathika is still in unauthorised occupation of the premises. After receipt of report, notice was issued to Smt.Lathika asking her to vacate the premises and to surrender the key. In spite of the above, she is continuing

even now. It is on the above basis that Ext.P4 was issued to the petitioner. Since the petitioner is not in possession of the premises, he cannot apply for transfer of license and no license can be issued to the sub lessee also; it is alleged.

4. Arguments have been heard.

5. The petitioner has submitted Ext.P5 in which he has stated that he had not received any notice from the Municipality directing to renew the agreement. This is incorrect; so submitted the learned counsel for the respondent Municipality. In Ext.P5, the petitioner has admitted the sub lease and requested for change of license. The act of giving possession of room to another is violation of Section 215 of the Kerala Municipalities Act and also against the agreement. It is, therefore, that Ext.P4 notice was issued for which the petitioner has submitted Ext.P5 reply; it was argued.

As the learned senior counsel for the petitioner confined his argument to the limited prayer for a

disposal of Ext.P3 representation, this writ petition is disposed of directing the respondent to consider and pass appropriate orders on Ext.P3, after affording the petitioner an opportunity of being heard.

It is hereby made clear that the contention taken by the respondent in the statement are left open to be decided in appropriate proceedings.

sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

CSS/

true copy

p.s.to judge