

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 16316 of 2015 (L)

PETITIONER(S) :

JOHN PETER,
S/O.LONAPPAN, RESIDING AT THERMADOM HOUSE, 33/3440,
CHEVARAMBALAM P.O., KOZHIKODE.

BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH.

RESPONDENT(S) :

1. CORPORATION OF THRISSUR,
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,
MO.ROAD, THRISSUR - 680 020.
2. THE SECRETARY,
CORPORATION OF THRISSUR,
CORPORATION OFFICE, MO ROAD, THRISSUR - 680 020.
3. V.P.SAYED MOHAMMED,
S/O.PANIKKAVEETIL MOIDEEN,
GOSAIKUNNU, KURIYACHIRA, THRISSUR - 680 006.
4. FATHIMA SAYED MOHAMMED,
W/O.SAYED MOHAMMED,
GOSAIKUNNU, KURIYACHIRA, THRISSUR - 680 006.

R1,R2 BY SRI.K.P.VIJAYAN, SC, THRISSUR CORPORATION &
R1,R2 BY ADV. SRI.V.N.HARIDAS.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1- A TRUE COPY OF THE SETTELMENT DEED REGISTERED AS DOCUMENT NO.5927/2002 OF THRISSUR SUB REGISTRY DATED 11.1.2002.
- EXT. P2- A TRUE COPY OF THE BUILDING PLAN SUBMITTED FOR THE PROPOSED COMMERCIAL BUILDING AND CERTIFIED BY THE ENGINEER.
- EXT. P3- A TRUE COPY OF THE BUILDING PERMIT DATED 19.2.2011 ISSUED BY THE 1ST RESPONDENT.
- EXT. P4- A TRUE COPY OF THE COMPLETED SITE PLAN OF THE COMMERCIAL BUILDING SHOWING TYPICAL FLOORS.
- EXT. P6- A TRUE COPY OF THE COMPLETED PLAN OF COMMERCIAL BUILDING SHOWING ROOF PLAN, TYPICAL FLOORS, SERVICE PLAN AND RAIN WATER HARVESTING SYSTEM.
- EXT. P7- A TRUE COPY OF THE COMPLETED PLAN OF COMMERCIAL BUILDING SHOWING FIRE STYSTEM.
- EXT. P8- A TRUE COPY OF THE OCCUPANCY CERTIFICATE ISSUED BY THE 1ST RESPONDENT FOR BASEMENT, GROUND AND 1ST FLOOR.
- EXT. P9- A TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE DIVISIONAL OFFICER, FIRE AND RESCUE SERVICE.
- EXT. P10- A TRUE COPY OF THE DETAILED COMPLAINT TO THE 1ST AND 2ND RESPONDENTS WITH COPIES TO THE CORPORATION ENGINEER, TOWN PLANNING OFICER, HEALTH DEPARTMENT, ELECTRICITY BOARD, FIRE AND RESCUE SERVICE.
- EXT. P11- A TRUE COPY OF THE NEWS ITEM APPEARED IN ONE OF THE NEWS PAPER.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.16316 of 2015

Dated this the 2nd day of June, 2015.

JUDGMENT

The allegation raised by the petitioner is that respondents 3 and 4 are making illegal constructions violating the building rules.

2. The petitioner owns an extent of 7.20 hectors (17.80 cents) of land comprised in Sy.No.114/16 in Chiyaram Village in Thrissur District and he is residing permanently at Kozhikode. The petitioner alleges that the property comprised in Sy.No.114/12 and 114/13 situated on the immediate south is owned by respondents 3 and 4. The petitioner alleges that they illegally obtained a building permit from the 1st respondent for constructing a commercial building by name "Fabis Arcade" having a basement, ground plus 1st 2nd and 3rd floors, showing incorrect data in the application. Now the construction of the commercial building is almost over and occupancy is allowed only to basement, Ground and First floors only and tenants are occupying the same. The petitioner noticed that respondents 3 and 4 have not left the required space/distance of 1.5 metre from his southern boundary and have provided openings on the northern wall of the building. They also provided glass walls

on the northern wall of the front rooms, fixed air conditioners on that side projecting into the open space, made an open kitchen and roof for the same covering the small space left and provided a power house/electric generator room in the little space left. He checked the measurements and required respondents 3 and 4 to remove the same but they did not respond. The petitioner further alleges that he has collected all records from the 1st respondent under the Right to Information Act and filed a detailed complaint to the Corporation dated 30.1.2015. However, so far no action has been taken and all the illegalities are being continued. It is further alleged that the respondents 3 and 4 have tremendous influence over the Corporation authorities and they are amenable to such influences and illegalities. There are so many illegal constructions in the city and there are general complaints about illegal constructions in the city and about the inaction of the authorities.

3. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Corporation.

4. The learned counsel for the petitioner confined his argument to the limited prayer for a direction to the respondent Corporation to consider and pass appropriate orders on Ext.P10

within a time frame.

Considering the nature of request and the nature of relief sought for, the writ petition is disposed of directing the respondent Corporation to consider and pass appropriate orders on Ext.P10, after affording the petitioner and the affected parties an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment. To facilitate an early action, it shall be open to the petitioner to produce a copy of the writ petition as well as the copy of this judgment before the respondent Corporation at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.