

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

WP(C).No. 16455 of 2015 (F)

PETITIONER:

**T.P.CHERIAN PHILIP, SO.SCARIA PHILIP, AGED 52,
THAKADIYAL HOUSE, BEE BEE LINE,
KACHAPPILLY ROAD, VYTTLA, KOCHI 19.**

BY ADV. SMT.T.B.MINI

RESPONDENT(S):

- 1. THE NATIONAL HIGHWAYS AUTHORITY OF INDIA,
REPRESENTED BY ITS SECRETARY,
G.5&6 SECTOR 10, DWARAKA, NEW DELHI - 110 075.**
- 2. CORPORATION OF KOCHI,
REPRESENTED BY ITS SECRETARY, MAIN OFFICE,
BOAT JETTY ROAD, ERNAKULAM, KOCHI - 682 031.**
- 3. THE TOWN PLANNING OFFICER,
TOWN PLANNING DEPARTMENT,
KOCHI CORPORATION, MAIN OFFICE,
BOAT JETTY ROAD, ERNAKULAM, KOCHI, 682 031.**

**R1 BY SRI.THOMAS ANTONY
R2 & R3 BY ADV. SMT.I.SHEELA DEVI
BY SRI.P.K.SOYUZ, SC
SRI.BABU KARUKAPADATH,SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1. TRUE COPY OF THE LICENSE ISSUED TO THE PETITIONER BY THE CORPORATION OF KOCHI.
- EXHIBIT P2. TRUE COPY OF THE HEALTH CARD ISSUED TO THE PETITIONER BY THE CORPORATION OF KOCHI.
- EXHIBIT P3. TRUE COPY OF THE FOOD SAFETY LICENCE ISSUED TO THE PETITIONER BY THE CHIEF FOOD SAFETY OFFICER, VIGILANCE, ERNAKULAM.
- EXHIBIT P4. TRUE COPY OF THE SKETCH ISSUED BY THE CORPORATION OF KOCHI TO THE PETITIONER SHOWING THE SPACE OF BUSINESS.
- EXHIBIT P5. TRUE COPY OF THE RECEIPT ACKNOWLEDGING THE REPRESENTATION DATED 24.4.15 SUBMITTED BEFORE CORPORATION OF KOCHI.
- EXHIBIT P6. TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE CORPORATION OF KOCHI.

RESPONDENT(S)' EXHIBITS:

- EXT.R1(A) : A TRUE COPY OF THE MINUTES (DISTRICT ROAD SAFETY COUNSEL MEETING) DATED 28.11.2014.
- EXT. R2(B) : A TRUE COPY OF THE NOTICE ISSUED BY 1ST RESPONDENT.

/TRUE COPY/

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J.

W.P(C). No.16455 of 2015

Dated this the 06th day of July, 2015.

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner has been directed to remove a licensed Bunk Shop, which the petitioner has been carrying on at Vyttila. The National Highways Authority has filed a statement, in which it is specifically stated that the eviction is as per the decision of a Road Safety Council produced at Ext.R1(a).

2. The National Highways Authority also has a contention that the site, in which the petitioner has been carrying on the Bunk Shop, vests with the Central Government, since the property has been handed over to the National Highways Authority for construction of four-lane road between Vyttila and Aroor. The petitioner's Bunk Shop is situated in the property handed over to the National Highways Authority. As per Section

24 of the Control of National Highways (Land and Traffic) Act, 2002, no person could occupy any Highway without obtaining prior permission in writing of the Highway Administration or any of the Officers authorised by such Administration. Hence, the petitioner definitely cannot carry on the Bunk Shop in the property, which now vests with the Central Government and the licence issued by the Corporation would be of no consequence.

3. However, if the petitioner seeks for a rehabilitation before the Corporation, then the Corporation could consider the prayer, but not in the property, in which now the Bunk Shop is situated. Any licence issued in pursuance of the consideration of Ext.P4, can only be in the property of the Corporation and not in the property of the National Highways Authority.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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