

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 16584 of 2015 (W)

PETITIONER :

**C.K.RAMLA, AGED 60 YEARS, HOUSE NO.4/178-A,
PUTHUVASERRY PARAMBU, M.A.S.S. ROAD,
MATTANCHERRY, KOCHI-682002.**

**BY ADVS.SRI.C.M.MOHAMED SHERIFF
SRI.V.M.SYAM KUMAR
SMT.KRIPA ELIZABETH MATHEWS**

RESPONDENTS :

- 1. THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS,
THIRUVANANTHAPURAM.**
- 2. CORPORATION OF KOCHI
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,
PARK AVENUE, ERNAKULAM-682011.**
- 3. ASSISTANT EXECUTIVE ENGINEER
CORPORATION OF KOCHI
ZONAL OFFICE FORT KOCHI-682001.**
- 4. ASSISTANT ENGINEER
CORPORATION OF KOCHI, ZONAL OFFICE, FORT KOCHI-682001.**
- 5. SRI.HANEEFA
4/178B, SATHRATHILHOUSE, MATTANCHERRY,
KOCHI-682002.**

**R1 BY GOVERNMENT PLEADER SMT. ANITHA RAVEENDRAN
R2 TO R4 BY ADV. SRI.K.ANAND, SC, COCHIN CORPN.
BY SRI.P.K.SOYUZ,SC,
R5 BY ADV. SRI.M.A.ASIF**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE RECEIPT DATED 29.8.2013 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.
- EXHIBIT P2: TRUE COPY OF THE NOTICE DATED 30.8.2013 BEARING NO.FCP1-1035/13 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT P3: TRUE COPY OF NOTICE DATED 19.9.2013 BEARING NO.1035/2013 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT P4: TRUE COPY OF THE RECEIPT DATED 30.9.2013 ISSUED TO THE PETITIONER.
- EXHIBIT P5: TRUE COPY OF THE NOTICE DATED 7.10.2013 BEARING NO.FCP1-1035/13 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT P6: TRUE COPY OF THE NOTICE DATED 5.11.2013 BEARING NO.FCP1-1035/13 ISSUED BY THE 4TH RESPONDENT TO THE 5TH RESPONDENT.
- EXHIBIT P7: TRUE COPY OF THE COMPLAINT DATED 28.11.2013 PREFERRED BY THE PETITIONER BEFORE THE HON'BLE OMBUDSMAN.
- EXHIBIT P8: TRUE COPY OF THE STATEMENT FILED BY THE 2ND RESPONDENT BEFORE THE HON'BLE OMBUDSMAN.
- EXHIBIT P9: TRUE COPY OF THE STATEMENT DATED 20.2.2015 FILED THE REGIONAL JOINT DIRECTOR, KOCHI BEFORE THE HON'BLE OMBUDSMAN.
- EXHIBIT P10: TRUE COPY OF THE ORDER DATED 23.4.2015 OF THE HON'BLE OMBUDSMAN IN OP NO.2046/2013.

RESPONDENT(S)' EXHIBITS

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- EXT.R5(a): COPY OF ACKNOWLEDGMENT RECEIPT NO. FCP1-2333/14 DT 16/12/2014 ISSUED BY R2 ACKNOWLEDGMENT RECEIPT OF THE REGULARIZATION APPLICATION.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.16584 of 2015

Dated this the 15th day of July, 2015.

JUDGMENT

Alleging inaction on the part of the respondent Corporation in proceeding against the fifth respondent, who according to the petitioner, is causing some illegal construction in the local limits of the respondent corporation, has come up before this court with this writ petition.

2. The petitioner is a widow aged 60 years. She is living in a small house in Mattancherry. The fifth respondent who is a highly influential person living in the next plot commenced construction of a wall and a room on the pathway leading to petitioner's house; it is alleged. The same was done illegally and without obtaining any permit or permission from the Local body as envisaged in law. Pursuant to the complaint preferred by the petitioner in 2013, though a preliminary notice was issued to the fifth respondent calling upon him to stop the illegal construction, the same was violated and a room was constructed illegally. Repeated requests made by the

petitioner to respondents 2 to 4 to implement the law fell into deaf ears. Even the confirmation notice issued was not served on the fifth respondent and was suppressed in the office of the second respondent. Petitioner hence preferred a complaint before the learned Ombudsman for local self government institutions. The learned Ombudsman directed the Regional Joint Director, Kochi to conduct an enquiry and file a statement. In the statement filed by the Regional Joint Director, it was inter alia stated that the construction was effected by the fifth respondent in violation of the Rules and that there is no justification for retaining the same. The statement clearly shows that further constructions were effected by the fifth respondent illegally in continuation of the construction of the wall. It was also stated that though a confirmation notice was signed by the secretary of corporation, the same was purposefully and deliberately withheld by the section clerk. However, the learned Ombudsman directed that further steps against the illegal construction be taken by the second respondent corporation within 10 months from the date

of receipt of the order. The illegal construction thus still continues causing serious prejudice and untold misery and damage to the petitioner.

3. Today, when the matter came up for hearing, the learned counsel for the fifth respondent would submit that the fifth respondent has submitted an application before the respondent Corporation for regularisation of the construction which has to be forwarded to the Government for consideration.

4. The Secretary of the Local Self Government is suo motu impleaded as additional sixth respondent and the Chief Town Planner, Ernakulam is suo motu impleaded as additional 7th respondent. The learned Senior Government Pleader has taken notice for the additional sixth and seventh respondents.

5. In the light of the subsequent developments, this Court is of the view that there can be a direction to the respondent corporation to forward the application so submitted by the fifth respondent to the sixth respondent after making the same in order within a reasonable time, so that the sixth

respondent can consider the same within a time frame with due notice to the petitioner as well as to the fifth respondent.

In the result, the writ petition is disposed of directing the respondent corporation to see whether the application for regularisation submitted by the fifth respondent is in order. If it is defective, the same shall be returned to the fifth respondent to cure the defect within a period of two weeks from the date of receipt of a copy of this judgment. The re-submission of the application by the fifth respondent, the second respondent corporation shall forward the same to the 7th respondent, Chief Town Planner, Ernakulam, who in turn shall forward the same to the sixth respondent for consideration. The sixth respondent shall issue notice to the petitioner as well as the fifth respondent for hearing and after hearing both sides, formal orders shall be passed within a period of two months thereafter.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.