

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 16663 of 2015 (G)

PETITIONER(S):

- 1. SALEENA BEEVI, AGED 39 YEARS,
W/O.A. MOHAMMED BASHEER, SHEBEER MANZIL,
SHEEMAVILA, KODUVAZHANOOR P.O.,
THIRUVANANTHAPURAM DISTRICT.**
- 2. MINIMOL, AGED 39 YEARS,
W/O.A.K. NOUSHAD, NAS MANZIL, SHEEMAVILA,
KODUVAZHANOOR P.O., PULIMATH VIA.,
THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.M.ZIYAD,
SRI.T.A.PRAKASH.**

RESPONDENTS:

- 1. NAGAROOOR GRAMA PANCHAYAT,
REPRESENTED BY SECRETARY,
THIRUVANANTHAPURAM - 695 618.**
- 2. THE SECRETARY,
NAGAROOOR GRAMA PANCHAYAT,
THIRUVANANTHAPURAM - 695 618.**

**BY ADVS. SRI.M.DINESH,
SRI.C.S.SUMESH.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

WP(C).No. 16663 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1. TRUE COPY OF THE REPRESENTATION DATED 21.05.2015
SUBMITTED BY THE 2ND PETITIONER BEFORE THE
2ND RESPONDENT.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J

WPC No.16663 of 2015

Dated this the 9th day of July, 2015

JUDGMENT

Aggrieved by the proposal of the respondents to construct a waiting shed/bus shelter in front of the shop rooms of the petitioners, the petitioners have come up before this Court.

2. The petitioners are the owners of the shop rooms constructed on the side of Nagaroor-Alamkode Road at Kadavila Junction. The said shop rooms were constructed after complying with the relevant Building Rules, after leaving some vacant space in front of the shops for the purpose of ingress and egress of vehicles, loading/unloading and parking.

3. According to the petitioner, the member of the first respondent Panchayat at the instance of respondents is trying to construct a waiting shed in front of the shop rooms of the petitioners which would prevent access to the shops of the petitioners and also obstruct the

footpath. Though there is already a waiting shed nearby which could be renovated, the respondents are deliberately with *mala fide* intention trying to curb the view to the shops from the main road by constructing a new waiting shed in front of the shops.

4. According to the petitioners, if the waiting shed is allowed to be constructed in front of the shops of the petitioners, the shop rooms of the petitioners would be of no use, because the view to the shops would be obstructed and the ingress and egress to the shops would be blocked and there would be no sale in the shops of the petitioners. According to the petitioners, when there is an attempt to construct the said waiting shed in front of their shops, the petitioners made a representation/objection to the second respondent stating all difficulties in constructing a waiting shed in front of their shops and the said act of the respondents would adversely affect the livelihood of the petitioners. The said representation has not yielded any positive results. It is with this background the petitioners have come up before this Court.

5. I have heard the learned counsel for the petitioners and the learned standing counsel for the respondent Panchayat.

6. The learned standing counsel for the respondent Panchayat, on instructions, submitted that the Panchayat is intending to construct the proposed bus shelter only after providing adequate space between the proposed shed and the petitioners' shop rooms.

7. In answer to the said submission, the learned counsel for the petitioners would submit that any construction in front of the petitioners' shop rooms, even after leaving a space between the shops and the proposed construction would affect the free ingress and egress to the petitioners' shops and therefore, the respondents are to be directed to desist from their attempt to construct any waiting shed/bus shelter in front of the shop rooms of the petitioners.

8. It is settled law that the owner of a land adjoining to a public way has every right to enter his property from the road through any portion of his property. It was

pointed out that already there is a waiting shed which can be renovated and the respondents are deliberately trying to curb the view to the shop rooms by constructing a new waiting shed in front of the shop. Such an attempt is illegal, arbitrary and unsustainable in the eye of law. If the proposed construction is allowed in front of the petitioners' shops, that would seriously affect the petitioners' business and therefore, the attempt for constructing the waiting shed has to be desisted.

In the result, this writ petition is allowed. The respondents are directed to desist from constructing any waiting shed in front of the shop rooms of the petitioners.

sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

css/

true copy

P.S.TO JUDGE