

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C).No. 20148 of 2013 (P)

PETITIONER(S) :

**ANNAMKUTTY GEORGE, AGED 66 YEARS,
W/O.GEORGE, CHAMMINIKODATH HOUSE, MALIAKKAL,
THEVARA P.O., KOCHI - 13.**

**BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SMT.MEGHA K.XAVIER**

RESPONDENT(S) :

- 1. CORPORATION OF KOCHI,
REPRESENTED BY ITS SECRETARY
OFFICE OF KOCHI CORPORATION, PARK AVENUE ROAD,
ERNAKULAM - 682 011.**
- 2. THE SECRETARY,
CORPORATION OF KOCHI, OFFICE OF KOCHI CORPORATION,
PARK AVENUE ROAD, ERNAKULAM - 682 011.**
- 3. THE TOWN PLANNING OFFICER,
CORPORATION OF KOCHI, OFFICE OF KOCHI CORPORATION,
PARK AVENUE ROAD, ERNAKULAM - 682 011**
- 4. BINU PAUL.P.P.,
PADANNAKKAL HOUSE, NETTUR P.O., ERNAKULAM,
KOCHI - 682 040.**

**R1-R3 BY ADV. SRI.MILLU DANDAPANI,SC,COCHIN CORPORATION
R4 BY ADV. SRI.M.R.NANDAKUMAR
R4 BY ADV. SRI.ALOSIOUS GILBERT
R1-R3 BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

AMV

: 2 :

WP(C).No. 20148 of 2013 (P)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1 : COPY OF PARTNERSHIP DEED DATED 16/1/1975.

**EXT.P2 : COPY OF REPRESENTATION DATED 30/5/13 MADE
BEFORE THE 2ND RESPONDENT WITH A COPY TO 3RD
RESPONDENT.**

**EXT.P3 : COPY OF NOTICE DATED 14/6/13 ISSUED BY 3RD
RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

**EXT.R4(a) : COPY OF THE COMPLAINT DATED 21.06.2013 TO THE
2ND RESPONDENT.**

/TRUE COPY/

PA.TO JUDGE

AMV

ANU SIVARAMAN, J.

.....
W.P.(C) No. 20148 of 2013 (P)
.....

Dated this the 11th day of August, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- i. issue a writ of mandamus or any other appropriate writ, order or direction to the respondents 1 to 3 to take emergent steps to remove the unauthorized construction made by the 4th respondent;

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- ii. issue such other reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. The petitioner claims to be aggrieved by the inaction on the part of the respondent Nos.1 to 3 in preventing the illegal constructions made by the 4th respondent in his property adjoining to the petitioner's property. It is alleged that construction of windows are being done in total violation of the plan and the Building Rules. It is also claimed that the minimum distance rule is also violated by the 4th respondent, in effecting the constructions.

3. Pursuant to an order dated 27.09.2013 issued by this Court, the 3rd respondent had filed an affidavit producing a report prepared pursuant to an inspection conducted on 10.10.2013. It is

stated in the affidavit as well as in the report that, the 4th respondent has effected the constructions in violation of the building rules and the minimum distance rules provided therein. It is stated that three shutter windows have been constructed in violation of Rule 62(2) of the Kerala Municipality Building Rules, 1999. Further violation have also been pointed out in Ext.R3(a) report.

4. It is submitted by the learned counsel for the petitioner that though the report has been filed as early as on 18.10.2013; no further steps have been taken by respondent Nos.1 to 3 to remove the unauthorised constructions or to take action against the 4th respondent in accordance with law.

5. I have heard Sri.C.A.Chacko, the learned counsel for the petitioner, Sri.Millu Dandapani, the learned Standing counsel for the respondent Nos.1 to 3 and Sri.M.R.Nandakumar, the learned counsel appearing for the 4th respondent.

6. The learned Standing counsel for the respondent Nos.1 to 3 would submit that, the respondents had pursuant to noticing the unauthorised construction, issued provisional order and stop memo to the 4th respondent. However, it is clear from a perusal of affidavit filed by the 3rd respondent as well as Ext.R3(a) that constructions have already been effected in violation of the rules.

In the above circumstances, the writ petition is disposed of, directing the respondent Nos.1 to 3 to take appropriate action, in

accordance with law, in terms of Ext.R3(a) report filed by the 3rd respondent with regard to the unauthorised constructions made by the 4th respondent in his property. Action in this regard shall be initiated in terms of the Municipality Act and Rules, within a period of one month from the date of receipt of a copy of this judgment.

AMV/11/08/

sd/-
ANU SIVARAMAN, JUDGE