

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE**

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 21527 of 2011 (S)

PETITIONER(S) :

- 1. PETER HILARIO M.J., S/O.JOSEPH, AGED 47 YEARS,
MAVELI HOUSE, PUZHAYORAVAZHI, JETTY ROAD,
VADUTHALA, KOCHI-23.**
- 2. P.G.JOSEPH KUNJACHAN, S/O.GEORGE,
AGED 57 YEARS, PUTHENPURACKAL HOUSE,
NEAR VADUTHALA BRIDGE, VADUTHLA P.O.-682 023.**

BY ADV. SRI.C.P.RAVIKUMAR

RESPONDENT(S) :

- 1. STATE OF KERALA REPRESENTED BY THE SECRETARY,
DEPARTMENT OF PUBLIC WORKS, THIRUVANANTHAPURAM.**
- 2. THE DISTRICT COLLECTOR,
ERNAKULAM.**
- 3. CORPORATION OF KOCHI, ERNAKULAM,
REPRESENTED BY ITS SECRETARY.**

**R1 & R2 BY SR.GOVERNMENT PLEADER SRI.P.IDAVIS
R3 BY ADV. SRI.JIBU P.THOMAS, S.C, COCHIN CORPORATION
BY ADV. SRI.P.K.SOYUZ, S.C, COCHIN CORPORATION**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE REPRESENTATION SIGNED BY ABOUT 275 PERSONS SUBMITTED BEFORE THE THEN MINISTER FOR PUBLIC WORKS DEPARTMENT (RELEVANT PAGES ONLY).

EXT.P1(A): TRUE COPY OF THE EXTRACT OF ENGLISH TRANSLATION OF EXHIBIT P1.

EXT.P2: TRUE COPY OF THE COMMUNICATION ISSUED BY THE THEN MINISTER.

EXT.P2(A): TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P2.

EXT.P3: TRUE COPY OF THE REPRESENTATION DATED 27.06.2011.

EXT.P3(A): TRUE COPY OF THE EXTRACT OF ENGLISH TRANSLATION OF EXT.P3.

RESPONDENT(S)' EXHIBITS

EXHIBIT R3(A): TRUE COPY OF THE SITE PLAN.

//TRUE COPY//

P.A.TO JUDGE

Msd

**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

*** * * * ***

W.P.C.No.21527 of 2011

Dated this the 15th day of June 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned special learned Government Pleader.
This writ petition has been filed as a public interest litigation
praying for the following reliefs:

"i. Issue a writ of mandamus or other writ or direction directing the respondents to take immediate steps to put a road in Division No.31 of Kochi Corporation in continuation of the PWD service road about 1.25 KM towards west and thereafter north;

ii. Direct the respondents to consider and dispose of Exhibits P1 & P3 according to law; and

iii. Allow this writ petition with costs."

2. Petitioner, by the public interest litigation, has come up seeking for a direction to put a road in Division No.31 of Kochi Corporation in continuation of the PWD service road about 1.25 KM towards west and thereafter north.

3. Counter affidavit *has been filed by the Corporation in which following has been pleaded in paragraphs 4 and 5:*

“4. It is respectfully submitted that there are only less than 25 families residing in the area where the proposed road sought to be put up. The proposed road runs along the boundary of Perandoor Canal, which is within the limit of Coastal Regulatory Zone. There are private land holdings which would fall within the zone of construction of the proposed road. It is also submitted that such private land holders are necessary party to this writ petition.

5. It is respectfully submitted that there is already a motorable tarred road having a width of 5 meters and a length of 1350 meters for the use of above said families. The said road is within the local limits of the corporation and hence the corporation is maintaining that road. The Corporation does not have any scheme or project in the said area as contemplated by the writ petitioners. It is also submitted that the proposed construction would involve huge expenses and not commensurate with the facts situated. A copy of the site plan is produced herewith and may be marked as Ext.R3(a).”

4. In view of the pleadings which have been brought on record by the Corporation, it is clear that there is no scheme or project in the said area as contemplated by the

petitioner and further there is already a motorable tarred road having a width of 5 meters and a length of 1350 meters for the use of families in the locality. It has further been brought on record that there are private properties which have to be acquired and the road cannot be put up without affecting large number of private persons.

In view of the fact that no road scheme has been proposed by the Corporation, we are of the view that the relief sought for in the writ petition cannot be granted. Hence this writ petition is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

