

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 21687 of 2011 (I)

PETITIONER:

**DR.JOSEPH KAVIRAYOOR ETHELBERT,
S/O.E.FRANCIS, H.NO.43/378,
KAVIRAYOR PAUL ABROA,
ROAD, KOCHI-18, ERNAKULAM.**

**BY ADVS.SRI.SAJAN MANNALI
SMT.T.N.SREEKALA**

RESPONDENT(S):

- 1. CORPORATION OF KOCHI,
O/O.OFFICE OF THE CORPORATION OF KOCHI,
NEAR BOAT JETTY, ERNAKULAM,
REPRESENTED BY ITS SECRETARY.**
- 2. ASSISTANT ENGINEER,
O/O.CORPORATION OF KOCHI, DO.**
- 3. HEALTH OFFICER,
O/O.CORPORATION OF KOCHI, DO.**

ADDL. R4 IMPEADED

- 4. C.I.MATHEW, C.EASO, AGED 89,
RESIDING AT 43/348, PAUL ABROA ROAD,
ERNAKULAM, COCHIN -25.**

**ADDL. R4 IS IMPEADED AS PER ORDER
DATED 30/05/2012 IN IA 2555/2012.**

**R1 TO 3 BY ADV. SRI.V.V.JOSHI,SC
BY SRI.P.K.SOYUZ,SC
ADDL. R4 BY ADV. SRI.PRAKASH P.GEORGE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1 : A TRUE COPY OF THE TITLE DEED OF THE PETITIONER, DT.1.6.'04
MARKED AS EXT. P1.**

**EXHIBIT P2 : A TRUE COPY OF THE OCCUPANCY CERTIFICATE, DDATED 18.3.'08
MARKED AS EXT. P2.**

**EXHIBIT P3 : A TRUE COPY OF THE NOTICE FROM THE 3RD RESPONDENT,
DT.20.6.'11 MARKED AS EXT. P3.**

EXHIBIT P4 : A TRUE COPY OF THE LETTER , DT.23.6.'11 MARKED AS EXT. P5.

**EXHIBIT P5 : A TRUE COPY OF THE REPLY BY THE PETITIONER'S COUNSEL,
DT.23.6.'11 MARKED AS EXT. P5.**

**EXHIBIT P6 : A TRUE COPY OF NOTICE OF ORDER OF THE 2ND RESPONDENT,
DT.27.7.2011, MARKED AS EXT. P6.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

DAMA SESHADRI NAIDU, J.

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W.P.(C) No.21687 of 2011

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Dated this the 3rd day of March, 2015

JUDGMENT

Challenge in this writ petition is against Ext.P6 notice issued by the 3rd respondent directing the petitioner to demolish structures allegedly put up by the petitioner on the drainage belonging to the respondent Corporation. Ventilating his grievance that before issuing Ext.P6 notice, the petitioner has not been heard, he has filed the present writ petition.

2. The learned counsel appearing for the additional 4th respondent has submitted that Ext.P6 notice in fact was issued by the respondent Corporation only based on the complaint made by the said additional 4th respondent.

3. Be that as it may, it is the singular contention of the petitioner that, even while acting on the complaint of the additional 4th respondent, the respondent Corporation ought to have issued a notice and provided a personal hearing to the petitioner before passing Ext.P6. In sum and substance, the action of the respondent Corporation is said to be in violation of principles of natural justice.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned counsel for the additional respondent, this Court has hereby aside Ext.P6 notice; consequently, it further directs the 3rd respondent to issue notice to the petitioner as well as the additional 4th respondent, before taking final decision on the complaint said to have been submitted by the additional 4th respondent. Needless to observe that the respondent Corporation may expedite the process and complete it at the earliest.

DAMA SESHADRI NAIDU, JUDGE

sj