

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No.19094 of 2015 (J)

PETITIONER:

**DR.HARIKUMAR,AGED 55 YEARS,S/O.NARAYANAN,
THANKOM VEEDU,INCHACKAL ROAD,CHIRAKADAVAM MURI,
KAYAMKULAM VILLAGE,ALAPPUZHA DISTRICT,PIN-690502.**

BY ADV. SRI.C.D.ANIL

RESPONDENT'S:

- 1. KAYAMKULAM MUNICIPALITY,REPRESENTED BY
THE SECRETARY,KAYAMKULAM MUNICIPALITY,
MUNICIPAL OFFICE,KAYAMKULAM,ALLEPPEY DISTRICT-690502.**
- 2. KAYAMKULAM MUNICIPAL COUNCIL,REPRESENTED
THROUGH THE CHAIRPERSON KAYAMKULAM MUNICIPALITY,
MUNICIPAL OFFICE, KAYAMKULAM,ALLEPPEY DISTRICT-690502.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE PHOTOCOPY OF APPEAL FILED UNDER 509 (1) OF THE KERALA MUNICIPALITY ACT BY THE PETITIONER DATED 22.6.2015.

EXT.P2:PHOTO COPY OF THE PETITION FILED ALONG WITH EXBT.P1 FOR CONDONING DELAY.

EXT.P3:THE PHOTOCOPY OF THE STAY PETITION FILED UNDER SECTION 509(3) OF THE KERALA MUNICIPALITY ACT.

EXT.P4:THE TRUE PHOTOCOPY OF RECEIPT INWARD NO 6461 DATED 22.7.2015.

EXT.P5:PHOTO COPY OF INWARD NO 6462 EVIDENCING RECEIPT OF EXBT.P2.

EXT.P6:PHOTO COPY OF INWARD NO 6463 EVIDENCING RECEIPT OF EXBT.P3.

EXT.P7:PHOTO COPY OF PROCEEDINGS OF THE RESPONDENT PH 10703/14 DATED 1.12.2014.

EXT.P8:PHOTOCOPY OF REPLY TO EXHIBIT.P7.

EXT.P9:INWARD NO.2186 ISSUED BY THE RESPONDENT ACKNOWLEDGING THE RECEIPT OF P8 DATED 18.3.2015.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 19094 of 2015

Dated this the 25th day of June, 2015

J U D G M E N T

The petitioner is seeking a direction for an early disposal of Ext.P1 appeal pending before the Council of the respondent municipality.

2. The petitioner is the owner of a land having an extent of 9.72 Ares within the local limits of the respondent municipality. According to the petitioner, the said property is bounded by a compound wall. He alleges that one Rasheeda Majeed, who is residing on the southern side of his property, laid an application before the respondent municipality alleging that the coconut tree standing on the southern side of the petitioner's property is causing nuisance to their peaceful residence. According to the petitioner, the said coconut tree does not cause any disturbance or nuisance to the neighbouring property. However, the respondent municipality issued Ext.P7 proceedings; and the petitioner replied vide Ext.P8 that

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there is no merit in the complaint as the said tree never protrudes or lean towards the property of the complainant. The petitioner's grievance is that though he has filed Exts.P1 to P3, the same has not been considered so far. Hence, this writ petition.

3. As the limited prayer in this writ petition is only for a speedy disposal of Ext.P1 appeal, this Court is of the view that the writ petition can be disposed of even without issuing notice to the respondents.

Therefore, the writ petition is disposed of directing the respondent municipality to consider and pass appropriate orders on Ext.P1 appeal submitted by the petitioner after affording the petitioner and the affected parties an opportunity of being heard.

Further action pursuant to Ext.P7 shall be kept in abeyance till a final decision is taken in the appeal.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-