

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 19331 of 2014 (N)

PETITIONER(S):

**KINGSDEN HOSPITALITY PRIVATE LIMITED,
MATTAMMAL HOUSE, TRIPUNITHURA, EROOR POST,
KOCHI-682 306, REPRESENTED BY ITS MANAGING DIRECTOR,
M.J.THOMAS.**

**BY ADVS.SRI.PREMCHAND R.NAIR
SMT ANNA THOMAS**

RESPONDENT(S):

- 1. THE CHIEF TOWN PLANNER & MEMBER SECRETARY,
ARTS & HERITAGE COMMISSION,
OFFICE OF THE CHIEF TOWN PLANNER,
KOTTARATHIL BUILDINGS, PALAYAM,
THIRUVANANTHAPURAM - 695 001.**
- 2. CORPORATION OF COCHIN,
CORPORATION OFFICE, SHANMUGHAM ROAD, ERNAKULAM,
KOCHI-682 011, REPRESENTED BY ITS SECRETARY.**
- 3. THE ASSISTANT EXECUTIVE ENGINEER,
CORPORATION OF KOCHI (ZONAL OFFICE), FORT KOCHI,
KOCHI - 682 601.**
- 4. THE COMMISSIONER OF EXCISE ,
EXCISE COMMISSIONERATE,
THIRUVANANTHAPURAM - 695 001.**
- 5. THE DIVISIONAL OFFICER,
DIVISION OFFICE, FIRE AND RESCUE SERVICES,
ERNAKULAM - 682 020.**
- 6. THE REGIONAL DIRECTOR,
INDIA TOURISM, 154, ANNA SALAI,
CHENNAI - 600 002, TAMIL NADU.**

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- 7. M/S. KILLIAN ECO TOURISM (P) LTD.,
RIVER ROAD, FORT KOCHI, KOCHI - 682 001,
REPRESENTED BY ITS MANAGING DIRECTOR.**
- 8. THE CHIEF ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD, PATTOM,
THIRUVANANTHAPURAM - 695 004.**

**R1 & R4 TO R6 BY GOVERNMENT PLEADER SMT.M.J.RAJASREE
R2 & R3 BY ADVS. SRI.N.RAVINDREN ACHARY,SC
SRI.P.K.SOYUZ,SC,**

**R7 BY ADVS. SRI.P.B.KRISHNAN
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE**

R8 BY ADV.SRI. M.AJAY, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1 : PHOTOCOPY OF BUILDING PERMIT ISSUED BY THE 3RD RESPONDENT TO THE 7TH RESPONDENT VIDE NO.FEPI-244/06(G) DTD.27.4.2007, REFERRED TO IN THE WRIT PETITION.

EXT. P2 : PHOTOCOPY OF ASSESSMENT REGISTER MAINTAINED BY COCHIN CORPORATION, WITH REGARD TO THE BUILDING OF 7TH RESPONDENT.

EXT. P2(A): PHOTOCOPY OF ASSESSMENT REGISTER MAINTAINED BY COCHIN CORPORATION, WITH REGARD TO THE BUILDING OF 7TH RESPONDENT.

EXT. P3 : PHOTOCOPY OF UNDERTAKING OF THE 7TH RESPONDENT DTD.24.1.2009 SUBMITTED BEFORE THE 2ND RESPONDENT, OBTAINED BY THE PETITIONER, UNDER RIGHT TO INFORMATION ACT.

EXT. P3(A): PHOTOCOPY OF BUILDING PLAN SUBMITTED BY THE 7TH RESPONDENT BEFORE THE CIRCLE INSPECTOR OF EXCISE, KOCHI.

EXT. P4 : PHOTOCOPY OF COMPLETION OF TERRACE FLOOR PLAN PERTAINS TO THE 7TH RESPONDENT'S BUILDING, OBTAINED BY THE PETITIONER, UNDER RIGHT TO INFORMATION ACT.

EXT. P5 : PHOTOCOPY OF NO OBJECTION CERTIFICATE ISSUED TO THE 7TH RESPONDENT BY THE ASSISTANT DIVISIONAL OFFICER, ERNAKULAM, VIDE NO.A2-7884/2008 DTD.7.8.2008.

EXT. P6 : PHOTOGRAPH OF THE BUILDING OF THE 7TH RESPONDENT.

EXT. P6(a): PHOTOGRAPH OF THE BUILDING OF THE 7TH RESPONDENT.

EXT. P7: PHOTOCOPY OF STAR CLASSIFICATION ORDER ISSUED BY THE 6TH RESPONDENT TO THE 7TH RESPONDENT VIDE REF. NO.INDTOUR/CHENNAI/HRACC/2009 (KER)/1085 DTD.10.12.2009, OBTAINED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT.

EXT.P8: PHOTOCOPY OF CONSENT TO ESTABLISH ISSUED BY THE 8TH RESPONDENT TO THE 7TH RESPONDENT VIDE FILE NO.PCB/RO/MFB/120/07 DTD.14.5.2007, OBTAINED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT.

EXT.P9: PHOTOCOPY OF COMPLAINT DTD.19.3.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P10: PHOTOCOPY OF REPORT BY THE 3RD RESPONDENT VIDE FCPI-611/14.

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EXT.P11: PHOTOGRAPH SHOWING THE ILLEGAL CONSTRUCTION EFFECTED BY THE 7TH RESPONDENT.

EXT.P12: PHOTOCOPY OF NOTICE ISSUED BY THE 3RD RESPONDENT TO THE 7TH RESPONDENT VIDE NO.FCPI-611/14 DTD.26.3.2014.

EXT.P13: PHOTOCOPY OF NOTICE ISSUED BY THE 3RD RESPONDENT TO THE 7TH RESPONDENT VIDE NO.FCPI-716/14 DTD.22.5.2014.

EXT.P14: PHOTOCOPY OF PAGES 1, 2 AND 18 TO 20 OF DOCUMENT NO.695/2006 DTD.10.2.2006.

EXT.P15: PHOTOGRAPH SHOWING THE CONSTRUCTION BY THE 7TH RESPONDENT.

EXT.P16: PHOTOCOPY OF INTERIM ORDER OF THIS HONOURABLE COURT, DATED 15.7.2014, ISSUED IN WP(C) NO6440 OF 2014 D.

EXT.P17: TRUE COPY OF THE COVERING LETTER DTD.25.11.2013 ISSUED BY THE 7TH RESPONDENT TO THE CORPORATION.

EXT.P18: TRUE COPY OF THE SANCTION FOR BUILDING PERMIT ISSUED BY THE ASST. EXECUTIVE ENGINEER, CORPORATION OF KOCHI.

EXT.P19: TRUE COPY OF THE OCCUPANCY CERTIFICATE UNDER RULE 22(3) GRANTED BY THE ASST. EXECUTIVE ENGINEER, ON 21.1.2014.

EXT.P20: TRUE COPY OF THE DOCUMENT ISSUED UNDER RIGHT TO INFORMATION ACT ON 5.9.2014 BY THE CIRCLE INSPECTOR OF EXCISE DEPARTMENT, KOCHI.

EXT.P21: TRUE COPY OF THE DOCUMENT SHOWING THE EXISTING GROUND FLOOR PLAN ISSUED UNDER RIGHT TO INFORMATION ACT ON 5.9.2014 BY THE CIRCLE INSPECTOR OF EXCISE DEPARTMENT, KOCHI.

EXT.P22: TRUE COPY OF THE DOCUMENT SHOWING THE EXISTING FIRST FLOOR PLAN ISSUED UNDER RIGHT TO INFORMATION ACT ON 5.9.2014 BY THE CIRCLE INSPECTOR OF EXCISE DEPARTMENT, KOCHI.

EXT.P23: TRUE COPY OF THE DOCUMENT SHOWING THE EXISTING SECOND FLOOR PLAN ISSUED UNDER RIGHT TO INFORMATION ACT ON 5.9.2014 BY THE CIRCLE INSPECTOR OF EXCISE DEPARTMENT, KOCHI.

EXT.P24: TRUE COPY OF THE DOCUMENT SHOWING THE EXISTING ROOF FLOOR PLAN ISSUED UNDER RIGHT TO INFORMATION ACT ON 5.9.2014 BY THE CIRCLE INSPECTOR OF EXCISE DEPARTMENT, KOCHI.

EXT.P25: TRUE COPY OF THE DOCUMENT SHOWING SITE PLAN ISSUED UNDER RIGHT TO INFORMATION ACT ON 5.9.2014 BY THE CIRCLE INSPECTOR OF EXCISE DEPARTMENT, KOCHI.

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**EXT.P26: TRUE COPY OF THE INFORMATION RECEIVED UNDER RIGHT TO
INFORMATION ACT ON 27.9.2014.**

**EXT.P27: TRUE COPY OF THE NOTICE NO.FCP-1/244/06(D) DTD.24.11.2008 ISSUED TO
THE 7TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

EXT.R2(A): TRUE COPY OF THE REPORT DTD.12.9.2014.

EXT.R7(a): TRUE COPY OF THE APPROVED PLAN OF THE ROOF FLOOR.

EXT.R7(b): TRUE COPY OF THE UNDERTAKING DTD.24.1.2009.

EXT.R7(c): TRUE COPY OF THE OCCUPANCY CERTIFICATE DTD.30.1.2009.

EXT.R7(d): TRUE COPY OF THE NO OBJECTION CERTIFICATE DTD.6.12.2014.

//TRUE COPY//

P.STO JUDGE

Msv/

A.M. Shaffique, J.

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W.P (C) No. 19331 of 2014

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Dated this, the 6th day of March, 2015.

J U D G M E N T

This writ petition has been filed by the petitioner alleging that the 7th respondent who is conducting a hotel has made additional construction violating the building permit and therefore a direction is sought for to the Corporation of Cochin to conduct proper enquiry in the matter and direct the 7th respondent to demolish the unauthorized construction.

2. Counter affidavit has been filed by the 7th respondent inter alia stating that they have made construction in terms with the valid permit issued by the Corporation.

3. The Corporation has filed a report inter alia stating that there had been certain violation, which are required to be rectified. Show cause notice has been issued in favour of the 7th respondent for which they have given appropriate reply.

4. Under such circumstances, the writ petition is disposed of as under:

The Corporation shall dispose of the notice issued in favour of the 7th respondent, after conducting necessary enquiry within two months from the date of receipt of a

copy of this judgment. If it is found that there is unauthorized construction, the Corporation shall take steps to demolish the same.

Sd/-

A.M. Shaffique, Judge.

Tds/