

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No. 19712 of 2015 (L)

PETITIONER(S):

**HANEEF, S/O. BAVA, AGED 42, 13/265 (A),
KOCHANGADY, MATTANCHERRY, KOCHI-2.**

**BY ADVS.SRI.G.KRISHNAKUMAR,
SRI.B.S.SURAJ KRISHNA.**

RESPONDENT(S):

- 1. CORPORATION OF COCHIN,
PARK AVENUE ROAD, ERNAKULAM,
REPRESENTED BY ITS SECRETARY.**
- 2. ADDITIONAL SECRETARY,
CORPORATION OF COCHIN, ZONAL OFFICE,
MATTANCHERRY, KOCHI-682 002.**
- 3. HEALTH INSPECTOR,
CIRCLE-8, CORPORATION OF COCHIN,
ZONAL OFFICE, MATTANCHERRY, KOCHI-2.**
- 4. CORPORATION COUNCIL,
COCHIN CORPORATION, PARK AVENUE ROAD,
ERNAKULAM, REP. BY ITS MAYOR.**
- 5. ANJALOS,
S/O.FATHER'S NAME NOT KNOWN TO THE PETITIONER,
MUDAVASSERI HOUSE, PALLURUTHY, KOCHI-682 006.**

**R1 TO R4 BY ADVS. SRI.PRAVEEN K.JOY, SC.
SRI.P.K.SOYUZ, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 19712 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1. THE PHOTOGRAPH OF THE PROPERTY WHEREIN SCRAP BUSINESS OF THE PETITIONER.
- EXT.P2. TRUE COPY OF THE ORDER DATED 23/04/2012 OF THE 3RD RESPONDENT.
- EXT.P3. TRUE COPY OF THE APPEAL NO.MOH/14805/12 MEMORANDUM DATED 15/05/2012 FILED BEFORE THE CORPORATION COUNCIL.
- EXT.P4. TRUE COPY OF THE JUDGMENT DATED 15/06/2015 IN WP(C).NO. 14026/2012.
- EXT.P5. TRUE COPY OF THE ORDER DATED 02/05/2015 OF THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 19712 of 2015

Dated this the 8th day of July, 2015

J U D G M E N T

Aggrieved by Ext.P5, which, according to the petitioner, was passed without affording the petitioner an opportunity of being heard, the petitioner has approached this Court.

2. The petitioner is a scrap trader dealing in iron scraps for the past 18 years. According to the petitioner, he collects iron and metal scraps within his building and compound comprised in Sy.Nos.546/1 and 546/2 of Rameswaram Village. He alleges that at the instance of the 5th respondent, the 2nd respondent issued Ext.P2 order, directing to close the said business. Challenging Ext.P2 order, the petitioner preferred Ext.P3 appeal before the 4th respondent, which was dismissed as per Ext.P5. According to the petitioner, Ext.P5 is a non speaking order; and the same is passed without hearing him and without considering any of the grounds raised in Ext.P3 appeal; and therefore, Ext.P5 is null and void. Hence, this writ petition.

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3. Arguments have been heard.

4. It appears from record that Ext.P5 was passed without affording the petitioner an opportunity of being heard. Therefore, the same shall not be allowed to stand.

5. As this Court is intending only to direct the 4th respondent for reconsideration of the matter afresh, this Court is of the view that it is not necessary to issue notice to the 5th respondent, who is the affected party.

In the result, the writ petition is allowed.

Ext.P5 is quashed. The matter is remitted back to the 4th respondent for fresh consideration after affording the petitioner and the 5th respondent an opportunity of being heard within a period of one month from the date of receipt of a copy of this judgment.

Till a final decision is taken in the appeal after hearing the petitioner and the 5th respondent, coercive action taken against the petitioner shall be kept in abeyance.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-