

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 20003 of 2015 (A)

PETITIONER(S):

- 1. BINESH V.R., SON OF RAJAN, AGED 36 YEARS,
STALL NUMBER R8, MALAMPUZHA GARDEN,
MALAMPUZHA, PALAKKAD DISTRICT.**
- 2. SURESHKUMAR T.,
STALL NUMBER R6, MALAMPUZHA GARDEN,
MALAMPUZHA, PALAKKAD DISTRICT.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF WATER RESOURCES,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001**
- 2. THE CHIEF ENGINEER,
DEPARTMENT OF IRRIGATION PROJECT ONE, KAVERY CELL,
KOZHIKODE -673 001**
- 3. THE EXECUTIVE ENGINEER,
OFFICE OF THE EXECUTIVE ENGINEER,
IRRIGATION DIVISION, MALAMPUZHA,
PALAKKAD DISTRICT -673 651**

R1 TO R3 BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-07-2015,ALONG WITH WP(C).NO.21455 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: A TRUE COPY OF THE GENERAL CONDITIONS OF THE TENDER
 LICENSE RELATING TO THE PETITIONERS
- EXT.P2: A TRUE COPY OF THE REPRESENTATION DATED 11/12/2014
 SUBMITTED BY THE PETITIONERS BEFORE THE THIRD RESPONDENT
- EXT.P3: A TRUE COPY OF THE LETTER DATED 31/12/2014 SUBMITTED BY THE
 3RD RESPONDENT TO THE 2ND RESPONDENT
- EXT.P4: A TRUE COPY OF THE LETTER DATED 6/1/15 SENT BY THE SECOND
 RESPONDENT TO THE 3RD RESPONDENT
- EXT.P5: A TRUE COPY OF THE LETTER DATED 9/1/15 SENT BY THE 3RD
 RESPONDENT TO THE 2ND RESPONDENT
- EXT.P6: A TRUE COPY OF THE LETTER DATED JANUARY 22, 2015 OF THE
 SECOND RESPONDENT TO THE FIRST RESPONDENT
- EXT.P7: A TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN
 WPC NO. 6855/2015
- EXT.P8: A TRUE COPY OF THE LETTER DATED JUNE 29, 2015 ISSUE TO THE
 FIRST PETITIONER
- EXT.P9: A TRUE COPY OF THE LETTER DATED JUNE 29, 2015 ISSUE TO THE
 SECOND PETITIONER.
- EXT.P10: JUDGMENT DATED JULY 15, 2011 IN WPC NUMBER 19281 OF 2011,
 THIS HONOURABLE COURT
- EXT.P11: COPY OF THE LETTER DATED JULY 19, 2015 ISSUED BY MADHU
- EXT.P12: COPY OF THE LETTER DATED JULY 19, 2015 ISSUED BY RENJITHA

RESPONDENT(S)' EXHIBITS AND ANNEXURES:

ANNEX R3(A) COPY OF THE G.O.(RT) NO.405/2015/WRD DATED 25/05/2015

/TRUE COPY/

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J

W.P(C) Nos.20003 of 2015 & 21455 of 2015

Dated this the 27th day of July, 2015

J U D G M E N T

The petitioners are aggrieved by the fact that Ext.P7 has not been complied with in its spirit and tenor. The petitioners who were also parties in Ext.P7 were before this Court seeking consideration of their representations which was directed to be considered on hearing their representatives. The petitioner now submits that the order issued on such consideration has not been complied with and that they are sought to be evicted by Exts.P8 and P9.

2. The petitioners, admittedly, were put in possession of certain stalls at the Malampuzha Garden, pursuant to Ext.P1 tender notification. Specific agreements of lease were executed and the period of lease also was specified. On the lease coming to an end, a tender was issued inviting fresh applications for lease and

the petitioners were before this Court, claiming that they are to be continued. This Court, by Ext.P7 directed that one out of the petitioners would be heard as a representative and that there would be status quo till then. The petitioners' representative, who was the 1st petitioner in Ext.P7, was heard. The petitioners, however, contend that the orders were not issued to the individual petitioners in Ext.P7.

3. It is to be noticed that the 1st petitioner in Ext.P7 has kept away from appearing before this Court. The official respondents produced the extract of the file across the Bar, which indicates that the copy of the order was served on Sri. Arumughan, the 1st petitioner in Ext.P7 in his address Stall No.R5, Malampuzha Garden, Malampuzha, Palakkad District. In such circumstance, it has to be deemed to have been served on each of the petitioners since the said Arumughan was their authorised representative before the Government. Arumughan has also kept away from the

present writ petition.

4. The petitioners seek that their eviction be cancelled on another ground of they being covered under the Kerala Public Buildings (Eviction of unauthorized Occupants) Act, 1968. However, the petitioners were put in possession on the basis of Ext.P1 notification and they had been validly occupying such premises and their continuation even after the same, was only on account of Ext.P7 judgment. In such circumstance, the provisions of the Act would not be applicable. W.P(C) No.20003/2015 would stand dismissed.

In view of the dismissal of W.P(C) No.20003/2015, W.P (C) No.21455/2015 is dismissed as infructuous.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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//true copy//

P.A to Judge