

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 24542 of 2012 (P)

PETITIONER:

1. MAJEED, AGED 51 YEARS,
S/O.SAYD, KALLEPARAMBIL HOUSE, PULLYAKODE,
KALATHODE, P.O.OLLUKKARA, THRISSUR DISTRICT.
2. GIRISHKUMAR M.K.,
MANNUTHIKKAL HOUSE, AMMU BHAVANAM, AZHIKODAN NAGAR,
OLLUKKARA P.O., THIRUVANIKKAVU , THRISSUR.
3. JONHY M.D.,
MENACHARY HOUSE , P.O.PNETTISERY, MUKKATTUKARA,
THRISSUR.
4. A.A.JACOB, AGED 56 YEARS,
ALAPPAT HOUSE, MARATHAKKARA, THRISSUR.
5. MUDASSER P.I.,
S/O.PANIKKASSERY ISMAIL, P.O.OLLUKKARA, THIRUVANIKAVU,
THRISSUR.

BY ADVS.SRI.C.D.DILEEP
SMT.SHYLAJA VARGHESE

RESPONDENTS:

1. THE THRISSUR MUNICIPAL CORPORATION,
REP.BY ITS SECRETARY, THRISSUR , PIN-680001.
2. THE SECRETARY,
THRISSUR MUNICIPAL CORPORATION, THRISSUR, PIN-680001

R1,R2 BY ADV. SRI.K.P.VIJAYAN
R1,R2 BY ADV. SRI.V.M.SYAM KUMAR
R1,R2 BY ADV. SMT.KRIPA ELIZABETH MATHEWS
R1,R2 BY ADV. SRI.V.N.HARIDAS
R BY SRI.K.P.VIJAYAN,SC,THRISSUR CORPORATION

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: A TRUE COPY OF THE REPRESENTATION/PETITION FILED BY THE PETITIONERS TO THE 2ND RESPONDENT DATED 30.11.2010

EXHIBIT P2: PHOTOGRAPH SHOWING CONSTRUCTION OF SHOP ROOM ADJOINING TO THE SHOP ROOM OF THE CO-EVICTEES OF THE PETITIONERS.

EXHIBIT P3: PHOTOGRAPH SHOWING VACANT PREMISES FIT FOR CONSTRUCTION OF THE SHOP ROOMS, ADJOINING TO THE SHOP ROOMS ALLOTTED TO THE CO-EVICTEES.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A. TO JUDGE

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ANIL K. NARENDRA, J
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W.P.(C).No. 24542 of 2012
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Dated this the 19th day of October, 2015

JUDGMENT

Petitioners have filed this writ petition seeking a writ of mandamus commanding the Thrissur Municipal Corporation, 1st respondent to rehabilitate them by constructing shop rooms adjoining to the existing shop rooms given to their co-evictees. The petitioners have also sought for a writ of mandamus commanding the 2nd respondent to consider Exhibit P1 representation forthwith.

2. Going by the averments in the writ petition, the petitioners were conducting small business like grocery, vegetables, meat stall etc. in their separate shops situated in the puramboke land on the side of the Mannuthy-Mukkatukara road belonged to the erstwhile Ollukkara Grama Panchayat. About 42 vendors were conducting business in the said area on the strength of an oral consent of the Ollukkara Grama Panchayat. Later, they were evicted from the said premises promising that they would be allotted separate shop rooms after the Panchayat

constructing new shop rooms on the road side. However, after construction of the shop rooms, the Panchayat allotted it to 13 outsiders. Then the petitioners were informed that the Panchayat Committee has decided to construct a shopping complex consisting of 54 rooms and they will be allotted shop rooms at the second stage of construction. By that time, the Ollukkara Grama Panchayat became part of Thrissur Municipal Corporation. In such circumstances, the petitioners submitted Exhibit P1 representation dated 30.11.2010 before the 2nd respondent and thereafter moved this Court in this writ petition seeking various reliefs.

3. A counter affidavit has been filed on behalf of the respondents stating that, Ollukkara Grama Panchayat merged with the Thrissur Corporation in the year 2000. Although, those who were promised rehabilitation by the erstwhile Grama Panchayat were rehabilitated in the Ollukkara Market Shopping Complex constructed by the Corporation, the name of the petitioners were not mentioned or included in the list of persons who were offered to be rehabilitated as per the decision of the Panchayat. The respondents have also stated that Exhibit P1 representation is not genuine document, and no such representation or any other representation in this regard was ever received by the Corporation. In such circumstances, the respondents would contend that the

petitioners are not entitled for any of the reliefs prayed for.

4. I have considered the contentions raised in the writ petition and also that in the counter affidavit filed on behalf of the respondents.

5. Though the petitioners would contend that they were conducting small business like grocery, vegetables and meat stall, etc. in the puramboke land on the side of the Mannuthy-Mukkatukara road belonged to the erstwhile Ollukkara Grama Panchayat and at the time of eviction the Panchayat had assured them alternate site, there is nothing on record to indicate that such an assurance was made by the erstwhile Grama Panchayat. Further, the specific stand taken by the respondents in their counter affidavit is that, those who were promised rehabilitation by the erstwhile Grama Panchayat were rehabilitated in the Ollukkara Market Shopping Complex constructed by the Corporation and that the name of the petitioners were not mentioned or included in the list of persons who were offered to be rehabilitated as per the decision of the Panchayat. The respondents have also stated that, Exhibit P1 representation was never received in the office of the Corporation. Though a copy of the counter affidavit filed by the respondents was served on 6.12.2012, the petitioners have not chosen to file a reply affidavit denying the specific averments made therein. In such

circumstances, the petitioners are not entitled for any of the reliefs prayed for in this writ petition.

In the result, the writ petition fails and the same is dismissed.
No order as to costs.

Sd/-
ANIL K. NARENDRAN,
JUDGE.

//True copy//

P.A. to Judge

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