

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

WP(C).No. 22765 of 2015 (U)

PETITIONER(S):

**MUNNAR MARKET MERCHANT'S ASSOCIATION,
REPRESENTED BY ITS PRESIDENT K.P. VIJAYAKUMAR,
AGED 46, S/O. K. PANDI, MARKET, MUNNAR, PIN -685 612.**

BY ADV. SRI.BABU PAUL.

RESPONDENT(S):

- 1. MUNNAR GRAMA PANCHAYAT,
REPRESENTED BY THE SECRETARY,
MUNNAR, PIN-685 612.**
- 2. THE MANAGER,
ENGINEERING DEPARTMENT K.D.H.P CO. (P) LTD.,
MUNNAR P.O., PIN- 685 612.**

**R1 BY ADV. SRI.ARUN THOMAS, SC.
R2 BY ADVS. SRI.V.ABRAHAM MARKOS,
SRI.BINU MATHEW,
SRI.TOM THOMAS (KAKKUZHIYIL),
SRI.ABRAHAM JOSEPH MARKOS,
SRI.ISAAC THOMAS,
SRI.SANTHOSH MATHEW.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1: THE TRUE COPIES OF SOME OF THE RECEIPTS OF THE
STALL RENT ISSUED BY THE 2ND RESPONDENT.
- EXT.P2: TRUE PHOTOGRAPHS SHOWING THE PATHETIC CONDITION OF
THE MARKET.
- EXT.P3: TRUE COPY OF THE JUDGMENT DTD. 12/09/2013 IN
WP(C).NO.22705/2013.
- EXT.P4: THE TRUE COPY OF THE REPRESENTATION DTD. 18/05/2015
FILED BY THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J

WPC No.22765 of 2015

Dated this the 20th day of August, 2015

JUDGMENT

The petitioner has approached this Court seeking a positive direction against the respondents to repair a private market at Munnar area.

2. The petitioner is an association of merchants in the Munnar Market, Munnar. It is a registered association having registration number I/231/2000. The Munnar Market (Town Market) is one of the oldest markets in Kerala. It is established in the year 1890. According to the petitioner, as on today, 105 retail merchants are conducting business in the market in different stalls. This is a private market under the control of the second respondent. It is governed by the provisions of the Kerala Panchayat Raj (Issuance of License and control of Public and Private Markets) Rules, 1996. Rules 7 to 12 deals with the licensing and control of the private market by the Panchayat. The petitioner points out that the second

respondent is the licensee of this market under the provisions of the Kerala Panchayat Raj (Issuance of License and Control of Public and Private Markets) Rules, 1996. The members of the petitioner are giving a rent of Rs.5/- per stall to the second respondent. The grievance of the petitioner is that since the market and the century old building is in a dilapidated and pathetic condition and it is totally unhygienic so as to continue as a market. Since the market and the century-old buildings belongs to the second respondent, who is a licensee from the Panchayat, the members of the petitioner cannot carry out any repairs on their stalls. The petitioner has pointed out the pathetic situation of the market and the unhygienic situation to the respondents several times and requesting them to carry out the repairs with immediate effect. However, no action is taken by them. The petitioner has filed several representations before the first respondent as well as the second respondent requesting them to carry out the repairs so as to avoid a major health hazard to the general public. However, no action was

taken.

3. The learned standing counsel for the second respondent, on instructions, submitted that their hands are tied up on account of the stay order granted by the Apex Court against altering the present state of affairs of the existing buildings in Munnar area.

4. In answer to the said submission, Mr.Babu Paul the learned counsel for the petitioner invited my attention to Ext.P2 photographs which would show the pathetic conditions of the market building. The learned counsel for the petitioner pointed out that what is required is only a direction to preserve the structures without any increase in the area, height etc. The present condition of the market building poses a threat to the life of the dwellers and therefore, what is required is only a direction to preserve the existing shed through proper repair and maintenance.

On a consideration of the entire materials now placed on record, I am of the definite view that there is no harm in directing the respondents to effect repairs to preserve

the existing building without making any change in the nature, area, height etc.

Therefore this writ petition is disposed of directing the respondents to consider Ext.P4 and to repair the market building which is in a dangerous condition without causing any change in the nature, area or height of the existing structure. This shall be initiated forthwith and the same shall be completed within a period of four months.

sd/-A.V.RAMAKRISHNA PILLAI
JUDGE

CSS/

true copy

P.S.TO JUDGE