

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 22773 of 2015 (V)

PETITIONER(S):

**DEVAKI, AGED 74 YEARS,
D/O VADAKOOT KUNJU, PORATHISSERY VILLAGE DESOM
MUKUNDAPURAM TALUK, THRISSUR DISTRICT**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, AYYANTHOLE, THRISSUR - 680 001.**
- 3. SUBHASH,
S/O KOOTHUPALAKAL NARAYANAN, PORTHISSERYVILLAGE,
MUKUNDAPURAM TALUK, THRIASSUR - 680 001.**

**R1 & R2 BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN
R3 BY ADVS. SRI.MURALI PURUSHOTHAMAN
SRI.DEEPU LAL MOHAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 22773 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: A TRUE COPY OF THE PARTICIPATION DEED BEARING NO 275/83 OF THE
IRINJALAKUDA SRO DT. 16/2/83.**

**EXT.P2: A TRUE COPY OF THE PLAINT IN OS NO. 4687 OF 2014 ON THE FILE OF THE
MUNSIFF COURT, IRINJALAKUDA DT. 31.10.14.**

**EXT.P3: A TRUE COPY OF THE ORDER PASSED BY THE SECOND RESPONDENT
DTD.20/10/14.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 22773 of 2015

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Dated this the 29th day of September, 2015

J U D G M E N T

The petitioner challenging Ext.P3 order of the District Collector has approached this Court. It is found in the Ext.P3 the petitioner using a premises a place of worship without necessary permission from him. It is also noted that it causes nuisance to the neighbouring owners. The petitioner's case is that he has put up only a small construction called as 'Mullathara' and it is being used as a private place of prayer and it is submitted that it is not being used for any other manner for the worship place by public. It is noted in the impugned order that the petitioner has constructed a shed having height of 10 ft and 6 ft width and the petitioner has placed idles and conducting 'Poojas'. However it is not discernible whether it is being used as the place of worship for a public or it serve a private place. Essentially Ext.P3 order has been passed taking note of a nuisance emanates from the place.

2. This Court is of the view that the nature of the activity in the place has to be ascertained by the District Collector. If it is purely a private affair, and being used only a place of private worship place, this Court is of the view that permission is not necessary from the District Collector. However it is being used a place of worship and it attracts public, necessarily permission has to be obtained from the District Collector. If the petitioner has constructed a building in violation of the building rules, it is open for the local authority to take appropriate action in accordance with the law against the illegal construction. But as far as using it is a place of worship, the District Collector has to apply in mind what is the nature of activity in this place. This Court is of the view that after hearing the petitioner and the third respondent, appropriate decision shall be taken by the District Collector within one month from the date of receipt of the copy of this order. If it is found that it is being used as place of worship as contemplated under the Government order, the petitioner cannot use the same without obtaining necessary orders from this Court. However if it is only

purely a private place of worship which does not attract the place of worship as contemplated under the Government order, the petitioner is free to use the same.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE