

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 23442 of 2015 (E)

PETITIONER(S):

SUBI BASKARAN, S/O.BASKARAN,
AGED 48 YEARS, MANAPPULLI VEEDU, VAZHAKKADAVU ROAD,
MANAPPULLIKKAVU, KUNNATHUR MEDU (P.O.), PALAKKAD,
PIN – 678 013.

BY ADVS.SRI.R.LAKSHMI NARAYAN
SMT.R.RANJINI
SRI.M.ASHOK KINI

RESPONDENT(S):

1. THE PALAKKAD MUNICIPALITY,
MUNICIPAL OFFICE, PALAKKAD – 678 001,
REPRESENTED BY ITS SECRETARY.
2. THE SECRETARY, PALAKKAD MUNICIPALITY,
MUNICIPAL OFFICE, PALAKKAD – 678 001.
3. MOHAN DAS V.,
FATHER'S NAME NOT KNOWN TO THE PETITIONER,
AGED ABOUT 56, CHAMAYAM HOUSE, PATTANIKKALAM,
KODUVACKOD KANNADI P.O., PALAKKAD – 678 701.

R1 & R2 BY ADV. SRI.T.C.SURESH MENON
R1 & R2 BY ADV. SRI.P.S.APPU
R3 BY ADV. SRI.VINOD KUMAR.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 23442 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 THE TRUE COPY OF THE COMPLAINT DATED 20-05-2015.

EXT.P2 THE TRUE COPY OF THE ACKNOWLEDGEMENT CARD.

EXT.P3 THE TRUE COPY OF THE APPLICATION DATED 20-05-2015.

EXT.P4 THE TRUE COPY OF THE ACKNOWLEDGEMENT CARD.

EXT.P5 THE TRUE COPY OF THE INTIMATION DATED 18-05-2015.

EXT.P6 THE TRUE COPY OF THE LETTER DATED 2-7-2015.

EXT.P7 THE TRUE COPY OF THE ACKNOWLEDGEMENT CARD.

EXT.P8 THE TRUE COPY OF THE PHOTOS SHOWING THE
UNAUTHORIZED CONSTRUCTION

RESPONDENT(S)' EXHIBITS

P. BHAVADASAN, J.

W.P.(C) No. 23442 of 2015

Dated this the 13th day of October, 2015.

JUDGMENT

In this writ petition, the reliefs sought for are as follows:

“i) issue a writ of mandamus, directing respondents 1 and 2 to initiate emergent, appropriate action on Ext.P1 and P6 complaints submitted by the petitioner, regarding his grievance against unauthorized construction carried out by the 3rd respondent in his property situated in Sy. No.4244/1 A of Yakkara Village of Manappullikkavu Road on Ward No. 27 of the Palakkad Municipality, forthwith and proceed against the 3rd respondent to prevent the unauthorized construction that is being carried out and demolish the unauthorized structures, that has already been erected, after conducting an emergent inspection of the property, and identifying the violation committed by the 3rd respondent.

ii) issue a writ of mandamus, directing respondents 1 and 2 to issue emergent orders, to stop the unauthorized construction that is been carried out by

the 3rd respondent in his property situated in Sy. No. 4244/1 A of Yakkara Village of Manappullikkavu Road in Ward No. 27 of the Palakkad Municipality, in violation of the provisions of the Municipalities Act and Building Rules.”

2. The petitioner is the co-owner in possession of 19.5 cents of property comprised in Sy. No. 4244/1 A of Yakkara Village within the limits of first respondent. The other co-owner is his wife. They own a residential building. On the south as well as south-eastern side of the petitioner's property, the third respondent owns 45 cents of property comprised in Sy. No. 4244/1 A of the same Village. In the said property, there was only a two storied commercial building bearing No.17/727(4) of Palakkad Municipality. The said building is let out by the third respondent for running a military canteen.

2. Petitioner understands that without a valid plan and permit, the third respondent has constructed two buildings on the rear side of the existing two storied building and those two unauthorised constructions were also let out to the same tenant. Petitioner also stated that the third respondent has now started construction of a building touching the southern compound wall on the south-east corner of the petitioner's property. Inspite of strong objections raised by the petitioner, the third respondent continued the construction without obtaining valid plan and permit from the first respondent.

3. The said high handed action on the part of the third respondent compelled the petitioner to file a complaint before the second respondent pointing out the illegalities being committed by the third respondent and the difficulties caused to the petitioner due to the unauthorized construction. The said complaint is produced as Ext.P1.

4. The complaint of the petitioner is that the second respondent has not taken any steps pursuant to the complaint and that compelled him to file an application, Ext.P3, under the provisions of the Right to Information Act before the second respondent. That also went unresponded. Meanwhile, the third respondent has succeeded in completing the unauthorized construction violating the law.

5. To Ext.P3 sent to the second respondent, the petitioner received Ext.P5 reply from the Public Information Officer of the first respondent. According to the petitioner, it is self-explanatory. In spite of the complaint filed by the petitioner pointing out the malafides of the third respondent, no action was taken by the authorities concerned. Due to the lukewarm attitude displayed by the authorities concerned, the petitioner is compelled to address the authorities as per Ext.P6 communication. That also went unattended. Left with no other option, the petitioner has approached this Court for

necessary reliefs.

6. The third respondent represented by counsel pointed out that he had not effected any unauthorized construction and according to him, it is done by the tenant.

7. Learned counsel for the local authority submits that if it is found that there is any unauthorized construction, action will be taken in accordance with law and the local authority will see that the construction is demolished.

8. In the light of the stand taken by the Corporation and in the light of the representation made by the learned counsel for the third respondent, this writ petition is disposed of as follows:

First and second respondents are directed to look into the matter immediately and ascertain whether any illegal construction has been made in the property belonging to the third respondent and assess the constructions and see whether they are in accordance with law and after obtaining

WPC.23442/2015.

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valid permit and if it is found otherwise, steps in accordance with law will be taken forthwith.

sb.

P. BHAVADASAN,
JUDGE