

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 25TH DAY OF AUGUST 2015/3RD BHADRA, 1937

WP(C).No. 26219 of 2015 (B)

PETITIONER(S):

**1.P.G.JAYAKUMAR,
S/O.GANGADHARAN, AGED 44 YEARS,
PADATHARA HOUSE, AZAD ROAD, VADIYAR LANE,
KALOOR, ERNAKULAM 682 017.**

**2.C.V.MOHANAN, S/O.VELAYUDHAN, AGED 63,
PADAPURAKKAL HOUSE, KATTAKKARA ROAD (EAST),
ERNAKULAM 682 017.**

**3.SUPRAN,S/O.KUNJAMBAVA, AGED 63,
KANIYAPADIKAL, KALOOR, KOCHI - 17.**

**BY ADVS.SRI.K.C.CHARLES
SRI.VIMAL K.CHARLES**

RESPONDENT(S):

**1.CORPORATION OF COCHIN,
REPRESENTED BY ITS SECRETARY, OFFICE OF THE
CORPORATION OF COCHIN, COCHIN - 11.**

**2.COUNCIL OF CORPORATION OF COCHIN,
REPRESENTED BY ITS CHAIR PERSON,
OFFICE OF THE CORPORATION OF COCHIN, KOCHI - 11.**

ADDL. 3RD RESPONDENT:

**3.THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS,
THIRUVANANTHAPURAM.**

**ADDL.3RD RESPONDENT IS SUO MOTU IMPLEADED AS PER ORDER
DATED 25.8.2015.**

R BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C). NO.12612/2013 (B) DATED 6.6.2013.

EXT.P2: COPY OF THE ORDER/NOTICE DATED 5.8.2013 ISSUED BY THE SECRETARY OF THE 1ST RESPONDENT.

EXT.P3: COPY OF THE APPEAL BEFORE THE COCHIN CORPORATION UNDER SECTION 409 OF THE KERALA MUNICIPALITIES ACT DATED 27.8.2013.

EXT.P4: COPY OF THE STAY PETITION FILED BY THE PETITIONERS UNDER SECTION 509(1) OF THE KERALA MUNICIPALITIES ACT.

EXT.P5: COPY OF THE JUDGMENT IN W.P.(C).NO.21480/2013 DATED 29.8.2013.

EXT.P6: COPY OF THE ORDER IN MOP1/9294/13 OF THE CORPORATION OF COCHIN DATED 16.7.2015.

EXT.P7: COPY OF THE REVISION PETITION DATED 22.8.2015 FILED BEFORE THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS AGAINST EXT.P6.

EXT.P8: COPY OF THE STAY PETITION DATED 22.8.2015 FILED ALONG WITH EXT.P7.

EXT.P9: COPY OF THE POSTAL RECEIPT EVIDENCING SENDING OF EXT.P7 AND P8 TO THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.26219 OF 2015 (B)

Dated this the 25th day of August, 2015

J U D G M E N T

The petitioners are aggrieved by Ext.P6 order of the respondent Corporation. They have therefore approached the additional 3rd respondent with Exhibits Ext.P7 revision petition and Ext.P8 stay petition seeking to set aside Ext.P6 order. It is the case of the petitioners that even before the additional 3rd respondent has had an occasion to consider Ext.P8 stay petition preferred by the petitioners, the respondents are taking hasty steps to implement Ext.P6 order to the prejudice of the petitioners. It is under these circumstances that the petitioners have approached this Court through the present writ petition.

2. I have heard the learned counsel for the petitioners as also the learned Standing counsel for the respondent Corporation.

3. Taking note of the submission of counsel for the petitioners that, while the writ petition was filed yesterday, and notice of the writ petition was given to the Standing counsel for the respondent

Corporation yesterday, the respondent Corporation is taking steps to demolish certain portions of the petitioners construction pursuant to Ext.P6 order, the Standing counsel for the respondent Corporation was orally informed to instruct the respondent Corporation to refrain from taking any coercive action pursuant to Ext.P6 order forthwith.

As regards the writ petition, I dispose the same with a direction to the additional 3rd respondent to consider and pass orders on Ext.P8 stay petition preferred by the petitioners, within a period of three weeks from the date of receipt of a copy of this judgment, after hearing the petitioners and the respondent Corporation. I make it clear that till such time as orders are passed on Ext.P8 stay petition and communicated to the petitioner, further steps pursuant to Ext.P6 order, shall be kept in abeyance.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp