

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 26771 of 2015 (V)

PETITIONER:

**SAROJA RENGAN, AGED 61 YEARS,
W/O. RENGAN, SHUNMUGHA, KATTIL VEEDU,
TC 14/2225, ORUVATHILKOTTAH, ANAYARA P.O.,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.ASWIN.P.JOHN**

RESPONDENT(S):

- 1. THE THIRUVANANTHAPURAM DEVELOPMENT
AUTHORITY (TRIDA), REPRESENTED BY ITS SECRETARY,
JATA MANSION, VAZHUTHACAUD,
SASTHAMANGALAM P.O.,
THIRUVANANTHAPURAM-695 001.**
- 2. PRINCIPAL SECRETARY,
PUBLIC WORKS DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

**R1 BY ADV. SRI.K.A.JALEEL, SC
R2 BY GOVERNMENT PLEADER SMT.C.K.SHERIN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : THE TRUE COPY OF THE NOTICE NO.R3/247/2014/TRIDA/4 DTD.2.7.2015
ISSUED BY THE 1ST RESPONDENT.
- P2 : THE TRUE COPY OF THE REPRESENTATION DTD.10.8.2015 SUBMITTED BY
THE PETITIONER.
- P3 : THE TRUE COPY OF THE REPRESENTATION DTD.3.9.2015 SENT BY THE
PETITIONER.
- P4 : THE TRUE COPY OF THE PHOTOGRAPH EVIDENCING THE DEMOLITION OF
THE FRONT SHUTTER.
- P5 : THE TRUE COPY OF THE PHOTOGRAPH EVIDENCING THE PARTIAL
DEMOLITION EFFECTED ON 5.9.2015.
- P6 : THE TRUE COPY OF THE PHOTOGRAPH EVIDENCING THE DEMOLITION
EFFECTED ON 6.9.2015 AND 7.9.2015.
- P7 : THE TRUE COPY OF THE REPRESENTATION DATED 8.9.2015 SUBMITTED BY
THE PETITIONER.

RESPONDENT(S)' EXHIBITS & ANNEXURES:

**ANNEXURE R1(A) : TRUE COPY OF THE JUDGMENT IN WPC.NO.29108/14
DATED 17.7.15 OF THIS HON'BLE COURT.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 26771 of 2015

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Dated this the 16th day of October, 2015

J U D G M E N T

The petitioner approached this Court alleging illegal action on the part of the first respondent in evicting her from the premises occupied by her under the first respondent.

2. The petitioner was allotted a shop room in the ground floor owned by Thiruvananthapuram Social Welfare Co-operative Society. The petitioner was necessitated to vacate the premises for the purpose of construction of Takaraparambu fly-over. Thereafter the petitioner was temporarily put in possession of a temporary bunk. It appears that there are litigations between the petitioner and the 2nd respondent. This Court is not advertent to the above aspect.

3. The petitioner has served with Ext.P1 notice dated 2.7.2015 to evict the premises. The petitioner submitted Ext.P2 reply before the 1st respondent. The petitioner's case is that without following the procedure as contemplated under the Kerala Public

Building (Eviction of Unauthorized Occupants) Act 1968, the petitioner was thrown out from the building, causing huge loss to the petitioner.

4. The learned counsel for the petitioner points out Section 5(1) of the above Act and procedure contemplated therein. It is pointed out that it is only after hearing or adverting to objection, the petitioner can be evicted. It is further submitted that the petitioner has a right to appeal before the District Collector u/s 10 as against the order passed by Sec.5. Therefore on account of the illegal eviction, the right of the petitioner to file the appeal has been lost.

5. It appears that the petitioner has been evicted pursuant to notice and the petitioner has been denied further opportunity under the above Act to file an appeal. As matters stand now, this Court is of the view that the petitioner cannot be directed to put in back the possession for obvious reason that the petitioner was given this premises provisionally till the rehabilitation take place. However any illegality suffered by the petitioner on account of eviction cannot be decided in this case especially loss has to be ascertained in appropriate manner. Therefore leaving open the

issues relating to the claim of compensation or damages suffered by the petitioner, the writ petition is disposed of as the petitioner's relief for restoration of eviction cannot be granted considering the nature of the allotment.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE