

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 29932 of 2013 (N)

PETITIONER:-:

**M STAR CHARITABLE SOCIETY,
REPRESENTED BY SHIJU KAMAL, VICE-PRESIDENT.**

**BY SRI.N.N.SUGUNAPALAN, SENIOR ADVOCATE.
ADV. SRI.S.SUJIN.**

RESPONDENTS:-:

- 1. THE PRESIDENT,
PATTANAKKAD BLOCK PANCHAYATH,
PATTANAKKAD, CHERTHALA-688 501.**
- 2. THE SECRETARY,
PATTANAKKAD BLOCK PANCHAYATH,
PATTANAKKAD, CHERTHALA-688 501.**
- 3. PATTANAKKAD PANCHAYATH,
REPRESENTED BY THE SECRETARY,
PATTANAKKAD, CHERTHALA-688 501.**

**BY ADVS. SRI.MURALI PURUSHOTHAMAN,
SRI.DEEPU LAL MOHAN,
SMT.S.LEENA,
SRI.K.S.PRENJITH KUMAR.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

WP(C).No. 29932 of 2013 (N)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE
RESPONDENTS IN W.P.(C)NO.6663 OF 2009 WITHOUT EXHIBITS.

EXHIBIT P2. TRUE COPY OF THE JUDGMENT DATED 02.04.2009 IN
W.P.(C).NO.6663 OF 2009.

EXHIBIT P3. TRUE COPY OF THE JUDGMENT DATED 04.07.2012 IN
W.A.NO.969 OF 2009.

EXHIBIT P4. TRUE COPY OF THE DECISION TAKEN BY THE BLOCK
PANCHAYATH ON 22.09.2012.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J

WPC No.29932 of 2013

Dated this the 20th day of July, 2015

JUDGMENT

Aggrieved by the decision taken by the respondents in preventing the petitioner from removing the furniture and other equipments purchased by them for conducting the computer classes in the Panchayat Building, the petitioner has come up before this Court.

2. According to the petitioner, the society had earlier approached this Court by filing WPC No.6663/2009, when the respondents prevented them from entering the premises and conducting the classes. The respondents had in the counter affidavit filed in the writ petition admitted that the classes were started and conducted by the petitioner. Contrary to the admission made by them, the respondents are now denying the fact that the petitioners had conducted classes and that they had purchased furniture and computer equipments to conduct

the classes. It is with this background the petitioner has come up before this Court.

3. Though notice has been served on the respondents, they did not turn up.

4. I have heard the learned counsel for the petitioner.

5. When there was obstruction from certain members of the Panchayat from entering into the building, the petitioner approached the District Collector with a complaint. Since no action was taken, the petitioner approached this Court with WPC No.6663/2009 seeking a direction to the respondent Panchayat to permit the petitioner to conduct classes till courses are over.

6. In the counter affidavit in the aforesaid writ petition, the respondents have stated that the petitioner was conducting classes in the premises with the oral consent of the previous committee and that there was no valid agreement with the petitioner society in connection with the letting out the building. They also admitted that around 90 students from various parts of the Panchayat joined the course. True copy of the counter so filed by the respondents is marked as Ext.P1. WPC No.6663/2009 was

disposed of directing the respondents to permit the petitioner to complete the course as per Ext.P2 judgment. Though the matter was taken in appeal, the same was dismissed as infructuous. As the petitioner is not allowed to enter the premises, the equipments purchased by the petitioner including the computer and furniture were left inside the building.

It is crucial to note that the respondent Panchayat has now taken up the contention that the computer and furniture left in the building do not belong to the petitioner. They have no such contention in the entire petitions. After repeated requests, the Panchayat committee has now taken up the stand that the committee could not trace out any documents to prove the ownership of the petitioner. Such a stand cannot be countenanced as the respondent Panchayat had no doubt regarding the petitioner's ownership over those goods. Therefore, the contention said to have been taken by the respondent is quite untenable. Therefore, this writ petition is allowed.

The first respondent is directed to permit the

petitioner to remove the furniture and computer equipments purchased by the petitioner which are now lying in the premises of the building belonging to the respondent Panchayat.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

PS.TO JUDGE