

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

W.P.(C).No. 31352 of 2010 (T)

PETITIONER :

**K.VIKRAMAN, PROPRIETOR,
BROTHERS ENGINEERING WORKS,
BY-PASS ROAD, KILLIPALAM
THIRUVANANTHAPURAM-8.**

**BY ADVS.SRI.P.N.MOHANAN
SRI. VINAYAKUMAR.I**

RESPONDENT(S):

- 1. CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.**
- 2. NEELAKANTA PILLAI, S/O. KAILASAMPILLAI,
T.C. NO.39/1522, KILLIPPALAM,
MANACAUD VILLAGE, THIRUVANANTHAPURAM.**

**ADDL.3. N.JAYAPRAKASH
S/O.LATE NEELAKANDAPILLAI, T.C.NO.39/1522, KILLIPPALAM
MANACAUD, THIRUVANANTHAPURAM.
ADDL. R3 IS IMPEADED AS PER ORDER DATED 18/02/2014 IN IA 2308/2014.**

**R1 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
ADV. SRI.P.K.MANOJKUMAR
R2 & ADDL.3 BY ADV. SRI.M.SREEKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : A TRUE COPY OF THE PARTNERSHIP DEED ENTERED BETWEEN THE PETITIONER AND SRI.SATHEESAN DATED 10.3.1995.**
- EXT.P2 : A TRUE COPY OF THE CONSENT OF THE 2ND RESPONDENT DATED 19.11.1994.**
- EXT.P3 : A TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONER AND SRI.SATHEESHAN DATED 23.12.2003.**
- EXT.P4 : A TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE PARTIES REGARDING THE DISSOLUTION OF THE PARTNERSHIP AGREEMENT DATED 9.1.2004.**
- EXT.P5 : A TRUE COPY OF THE JUDGEMENT IN AS NO.15/2005**
- EXT.P6 : A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR OBTAINING LICENSE.**
- EXT.P7 : A TRUE COPY OF THE ORDER DATED 30.6.2010.**

RESPONDENTS EXHIBITS :

- EXT.R1(a) : THE PHOTOSTAT COPY OF THE LETTER NO.000430 DATED 20.1.2004 SUBMITTED BY THE SATHEESAN, BEFORE THE SECRETARY, CORPORATION OF THIRUVANANTHAPURAM.**
- EXT.R1(b) : THE PHOTOSTAT COPY OF THE ORDER DATED 7.10.2008 IN W.P.(C)NO.28501 OF 2008(R) PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.**
- EXT.R1(c) : THE PHOTOSTAT COPY OF THE RESOLUTION NO.1(5) ZE4/4717/07 DATED 5.8.2009 ISSUED BY THE MAYOR, CORPORATION OF THIRUVANANTHAPURAM.**
- EXT.R1(d) : THE PHOTOSTAT COPY OF THE LETTER NO.ZE4/4717/04 DATED 21.8.2009 ISSUED BY THE HEALTH OFFICER, CORPORATION OF THIRUVANANTHAPURAM, TO THE PETITIONER.**

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- EXT.R1(e) : THE PHOTOSTAT COPY OF THE ORDER DATED 15.10.2009 IN REVISION PETITION NO.76/2009 PASSED BY THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, TRIVANDRUM, TO THE PETITIONER.**
- EXT.R1(f) : THE PHOTOSTAT COPY OF THE JUDGMENT DATED 15.3.2010 IN W.P.(C).NO.8288 OF 2010 (I) PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.**
- EXT.R1(g) : THE PHOTOSTAT COPY OF THE JUDGMENT DATED 16.3.2007 IN W.P.(C)NO.12185 OF 2004(A) PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.**
- EXT.R1(h) : THE PHOTOSTAT COPY OF THE JUDGMENT DATED 22.5.2008 IN W.P.(C)NO.13742 OF 2008(J) PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.**

/TRUE COPY/

PA TO JUDGE

VS

V.CHITAMBARESH, J

W.P.(C) No.31352 of 2010

Dated this the 15th day of January, 2015

JUDGMENT

Ext.P7 order declining license to the petitioner to conduct a work shop is impugned. Such an order is very much appealable to the Corporation Council under Section 509(1) of the Kerala Municipality Act. A further appeal lies to the Tribunal for Local Self Government institutions under Section 509(7) of the Act. More over the period for which the license was applied for is 2010-11 (See Ext.P6) which has expired.

2. One of the reasons for declining license is the absence of a consent letter from the owner of the premises. The written consent of the owner is essential under Section 492(3) of the Kerala Municipality Act. No tax receipt is also produced to show that the dues to the Municipal Corporation has been cleared *in toto*.

3. The rights of the parties had already been determined in as many as four writ petitions filed earlier. The same reflects that the petitioner could occupy the

premises by virtue of a partnership with the tenant. The partnership has since been dissolved and the tenant has admittedly vacated the premises. No grounds have been made out to enable the petitioner to continue in the premises therefore.

The writ petition is dismissed. No costs.

Sd/-
V.CHITAMBARESH
JUDGE

/TRUE COPY/

PA TO JUDGE

VS