

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 30015 of 2014 (B)

PETITIONER:

1. MULAKKAL KASSIM, AGED 65 YEARS
S/O.MULAKKAL KUNJIMOIDU, VAROD AMSOM DESOM,
OTTAPPALAM TALUK, PALAKKAD DISTRICT.
2. MUHAMMED, AGED 55 YEARS,
S/O.ABDUL KHADER, VAROD AMSOM DESOM, OTTAPPALAM TALUK,
PALAKKAD DISTRICT.

**BY ADVS.SRI.K.SHIBILI NAHA
SRI.SAJU RAGHAVAN**

RESPONDENT:

1. OTTAPPALAM MUNICIPALITY,
REPRESENTED BY SECRETARY, OTTAPPALAM-678001.
2. THE SECRETARY,
OTTAPPALAM MUNICIPALITY, OTTAPPALAM, PIN-678001.

BY ADV. SRI.P.P.THAJUDHEEN, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

WP(C).No. 30015 of 2014 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 COPY OF THE AGREEMENT EXECUTED BY THE PREDECESSOR IN
INTEREST WITH THE OTTAPPALAM PANCHAYATH IN JUNE 1965.**
- EXT.P2 COPY OF THE REGISTERED LAWYER NOTICE ISSUED BY THE
PETITIONERS TO THE IST RESPONDENT DATED 15.11.2013**
- EXT.P3 COPY OF THE REPLY NOTICE DATED 6.1.2014**
- EXT.P4 COPY OF THE NOTICE DATED 17.7.2012**
- EXT.P5 COPY OF THE JUDGMENT IN W.P(C)1857/2013 DATED 25.2.2014.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.30015 of 2014

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Dated this the 21st day of August, 2015

JUDGMENT

The petitioners seek a direction to the 2nd respondent to place the grievances projected by the petitioners before the Municipal Council in its next meeting and report the decision to this Court.

2. The petitioners are the absolute owner of an extent of 30 cents of land falling in Sy.No.108/3B, 4B and 176/5 of Varod Village within the limit of 1st respondent Municipality. According to the petitioners, they are put in possession of the said property by virtue of registered partition deed Nos.3587/88, 296/86 of Ottappalam SRO and also by virtue of surrender deed numbers 196/92, 197/92, 2/92, 99/94 respectively of Ottappalam SRO. The said properties were leased out to the erstwhile Ottappalam panchayat by the predecessors of the petitioners for running a daily market way back in 1965. The said

arrangement was initially for a period of one year for a monthly rent of Rs.100/- which was subsequently renewed and enhanced to Rs.500/- per month. The 1st respondent Municipality had been using the said premises for conducting the daily market, and the same is left unoccupied and vacant following the establishment of a market cum shopping complex in 2011. The petitioner submitted that the 1st respondent has constructed a huge market cum shopping complex. The market cum shopping complex have already been auctioned by the Municipality pursuant to Ext.P5 judgment of this Court dated 26.2.2014. Therefore, the property belonging to the petitioners is no longer required for the Municipality for the purpose of running a market. The petitioners are aggrieved by the action of the Municipality retaining the property owned by the petitioners. It is with this backdrop, the petitioners have approached this Court.

3. I have heard the learned counsel for the petitioners and the learned Standing counsel.

4. The learned Standing counsel for the respondent Municipality on instruction submitted that no proper application submitted by the petitioners is pending before the respondent Municipality and if the petitioner is directed to submit such an application, the same shall be considered in accordance with law.

5. Therefore, this writ petition is disposed of permitting the petitioners to submit the application projecting their grievances before the council of the respondent Municipality within 2 weeks of receipt of copy of this judgment. In the event of receipt of such a request, the same shall be considered and formal orders be passed after affording sufficient opportunity of being heard to the petitioners within two weeks thereafter.

Sd/-
A.V.RAMAKRISHNA PILLAI,
Judge.

ami/

//True copy//

P.A. to Judge