

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 32261 of 2014 (G)

PETITIONER(S):

**D.JOSE, AGED 46 YEARS,
S/O.DASAN, AKSHAYA BHAVAN, MUNDAKKAL WEST,
KOLLAM, REPRESENTED BY HIS POWER OF
ATTORNEY HOLDER MINIMOL P., PUTHENVEEDU,
NEAR S.N. COLLEGE, KOLLAM.**

BY ADV. SRI.K.I.MAYANKUTTY MATHER

RESPONDENT(S):

- 1. CORPORATION OF KOLLAM,
REPRESENTED BY ITS SECRETARY, KOLLAM - 691 001.**
- 2. THE SECRETARY,
CORPORATION OF KOLLAM, KOLLAM - 691 01.**

BY ADV. SRI.M.K.CHANDRA MOHAN DAS, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE PETITIONER AND THE 1ST RESPONDENT DATED 2-12-2004.
- EXHIBIT P2 TRUE COPY OF THE JUDGMENT IN WPC 30759/2005 OF THIS HON'BLE COURT DATED 22-12-2005.
- EXHIBIT P3 TRUE COPY OF THE JUDGMENT IN WPC 4328/2007 OF THIS HON'BLE COURT DATED 21-3-2007.
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 26-09-2014.
- EXHIBIT P5 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 4-11-2014.
- EXHIBIT P6 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 26-11-2014.
- EXHIBIT P6(a) TRUE COPY OF THE STAY APPLICATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 27-11-2014.
- EXHIBIT P7 TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT ISSUED BY THE 1ST RESPONDENT DATED 27-11-2014.
- EXHIBIT P8 TRUE COPY OF THE PHOTOGRAPH OF THE PETITIONER'S BUILDING.
- EXHIBIT P8(a) TRUE COPY OF THE PHOTOGRAPH OF THE PETITIONER'S BUILDING.
- EXHIBIT P9 TRUE COPY OF THE PHOTOGRAPH OF THE UNAUTHORIZED VENDORS.
- EXHIBIT P9(a) TRUE COPY OF THE PHOTOGRAPH OF THE UNAUTHORIZED VENDORS.
- EXHIBIT P9(b) TRUE COPY OF THE PHOTOGRAPH OF THE UNAUTHORIZED VENDORS.
- EXHIBIT P9(c) TRUE COPY OF THE PHOTOGRAPH OF THE UNAUTHORIZED VENDORS.

RESPONDENT(S)' EXHIBITS:

EXT.R1: A COPY OF THE RESOLUTION NO.38 DTD.25.10.2014.

EXT.R2: A COPY OF THE AUCTION/QUOTATION NOTICE NO.R10/3206/13 DTD.28.11.2014.
//TRUE COPY//

P.S.TO JUDGE

Msv/

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 32261 of 2014

Dated this the 19th day of March, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Corporation, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, on 02.12.2004 certain space was allotted on Build-Operate-Transfer (BOT) basis to the petitioner by the respondent Corporation within its territorial limits to enable him to run a Snack Parlour after making the necessary constructions. On mutually agreed terms, the time is said to have been fixed as ten years. Before the period could expire, on 26.09.2014, the petitioner submitted a request for extension of the period of ten years, which was to come to an end by 02.12.2014. The respondent

Corporation, however, turned down the request through its proceedings dated 04.11.2014.

3. Aggrieved, the petitioner filed Exhibit P6 appeal and Exhibit P6(a) stay application, both of which have not been decided. On that count, questioning the inaction of the respondent Corporation, the petitioner filed the present writ petition.

4. As can be seen from the record, for want of any interim protection in the writ petition, the respondent Corporation eventually subjected the petitioner to eviction. Presently, the property initially leased out to the petitioner is back in the possession of the respondent Corporation.

5. The respondent Corporation put the property to auction on 12.12.2014, when only two bidders participated. One bidder offered Rs.15,00,000/- as Security deposit and Rs.15,000/- as monthly rent. Though the respondent Corporation granted time to the said bidder till 22.12.2014 to comply with the auction conditions, the said bidder seems to have failed.

6. Before the respondent Corporation could contemplate auctioning the property once again, the

petitioner submitted an application with an offer that he was willing to deposit Rs.2,00,000/- as Security deposit, apart from paying Rs.15,500/- as monthly rent. It seems that he has also offered to deposit six months' rent in advance.

7. The learned counsel for the petitioner, leaving aside all the technicalities, has submitted before the Court that the respondent Corporation may as well consider petitioner's offer before it could proceed with any further auction of the property. The learned Standing Counsel for the respondent Corporation, in my view fairly, has submitted that the respondent Corporation will in real earnest consider the petitioner's proposal and take a final decision thereof, before proceeds, if necessary, with any further auction.

8. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel for the respondent Corporation, this Court, without adverting to the merits of the matter, disposes of the writ petition recording the submission of the learned Standing Counsel for the

respondent Corporation that the Corporation will consider the petitioner's offer and pass appropriate orders thereon, as expeditiously as possible.

With the above observation, this writ petition is disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-