

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 33411 of 2015 (B)

PETITIONERS:

1. PADMAKUMAR.T.S, AGED 52 YEARS,
S/O.SANKARAN, LAL BHAVAN THAZHAKKAL HOUSE,
KADAYIRUPPU. P.O, KOLENCHERRY, PIN:682 311,
ERNAKULAM DISTRICT.
2. AVINASH. P.K, S/O.KUMARAN,
PALIYATHUMOLEL HOUSE, PANGOD. P.O.,
VADAVUKODE, PIN:682 310, ERNAKULAM DISTRICT.
3. ANUDAS. M.B, MEKKATTUMOLATH HOUSE,
VALAMBOOR KARA, KADAYIRUPPU. P.O.,
KOLENCHERRY, PIN:682 311, ERNAKULAM DISTRICT.
4. DILEESH. P.K, PULINCHOTTILKUDY HOUSE,
KADAMATTAM. P.O, KOLANCHERRY,
PIN:682 311, ERNAKULAM DISTRICT.
5. JOBY KUNJUMON, KUDILUMARIYIL HOUSE,
MANGATTOOR, KOLENCHERRY. P.O.,
PIN-682 311, ERNAKULAM DISTRICT.
6. VARGHESE. J.R, RAGULATH HOUSE,
KADAYIRUPPU. P.O, KOLENCHERRY,
PIN-682 311, ERNAKULAM DISTRICT.

BY ADVS.SRI.C.P.SAJI,
SMT.P.DEEPA MOHAN.

RESPONDENTS:

1. THE SECRETARY,
AYKKARANAD GRAMA PANCHAYATH, KADAYIRUPPU. P.O.,
KOLENCHERRY, ERNAKULAM DISTRICT, PIN-682 311.
2. THE SECRETARY,
POOTHRIKKA GRAMA PANCHAYATH, POOTHRIKKA. P.O.,
KOLENCHERRY, ERNAKULAM DISTRICT, PIN:682 308.

3. THE JOINT REGIONAL TRANSPORT OFFICER,
MINI CIVIL STATION, MUVATTUPUZHA,
ERNAKULAM DISTRICT, PIN-686 661.
4. THE SUB INSPECTOR OF POLICE,
PUTHENCROUZ POLICE STATION, PUTHENCROUZ. P.O.,
ERNAKULAM DISTRICT, PIN-682 308.
5. JAYESH. P.S, S/O.SUPRAN,
THACHUKUZHAYIL HOUSE, THONNIKKA
KOLENCHERRY, ERNAKULAM DISTRICT, PIN-682 311.
6. SAJI, S/O.CHACKO,
PARASERRIL HOUSE, KOLENCHERRY. P.O.,
ERNAKULAM DISTRICT, PIN-682 311.

*** ADDL. R7 IMPEADED**

7. MALANKARA ORTHODOX SYRIAN CHURCH
MEDICAL COLLEGE AND HOSPITAL,
KOLENCHERRY-682 311, ERNAKULAM DISTRICT,
REPRESENTED BY ITS SECRETARY,
MALANKARA ORTHODOX SYRIAN CHURCH
MEDICAL COLLEGE AND HOSPITAL,
KOLENCHERRY-682 311, ERNAKULAM DISTRICT.

*** ADDL. R7 IS IMPEADED AS PER ORDER DATED 08/12/2015 IN
I.A. NO.17490/2015.**

**R1 BY ADV. SRI.N.K.PAULOSEKUTTY,SC,AIKKARANAD PANC
R2 BY ADV. SRI.SAJEEV KUMAR K.GOPAL, SC.
R3 & R4 BY GOVT. PLEADER SMT.ANITHA RAVINDRAN.
ADDL. R7 BY ADVS. SRI.GEORGE KURUVILLA,
SRI.MANU GEORGE KURUVILLA.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 TRUE COPY OF PERMIT NO.P.CO 17/2539/2015 DATED 01.10.2015 ISSUED TO THE 1ST PETITIONER'S VEHICLE BEARING REGISTRATION NO.KL-17-N-4383 BY THE 3RD RESPONDENT.
- P2 TRUE COPY OF PERMIT NO.P.CO 17/2007/2015 DATED 20.08.2013 ISSUED TO 2ND PETITIONER'S VEHICLE BEARING REGISTRATION NO.KL-17 -K-6629 BY 3RD RESPONDENT.
- P3 TRUE COPY OF THE REPRESENTATION DATED 15.10.2015 SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT.
- P4 TRUE COPY OF RECEIPT NO.10885/2015 DATED 15/10/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS FOR THE RECEIPT OF EXHIBIT P3 REPRESENTATION.
- P5 TRUE COPY OF REPRESENTATION DATED 15.10.2015 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT.
- P6 TRUE COPY OF RECEIPT NO.6792/2015 DATED 15.10.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS FOR THE RECEIPT OF EXHIBIT P5 REPRESENTATION.
- P7 TRUE COPY OF JUDGMENT DATED 21.05.2013 IN W.P.(C)12632/2013 OF THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.
- P8 TRUE COPY OF THE JUDGMENT DATED 04.03.2015 IN WP(C).NO.26101/2014 HON'BLE HIGH COURT OF KERALA, ERNAKULAM.
- P9 TRUE COPY OF COMPLAINT SUBMITTED BEFORE THE 4TH RESPONDENT DATED 26.10.2015 BY THE PETITIONERS.
- P10 TRUE COPY OF REPRESENTATION SUBMITTED BEFORE THE 3RD RESPONDENT DATED 26.10.2015 BY PETITIONERS.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. HARILAL, J.

= = = = =

W.P. (C) No.33411 of 2015

- - - - -

Dated this the 8th day of December, 2015

J U D G M E N T

The petitioners are drivers by profession and they are owners of TATA MAGIC IRIS BS-III vehicles, which were registered, as Motor Cab (Taxi) and taxi permits were issued for five years. Since the vehicles are registered as taxi, they are all operating their vehicles for taxi service to the public. But, a particular parking place is not specifically mentioned in their permit. Since the petitioners are living around the place Kolencherry, they are operating their vehicles and parking amongst the taxis and autorickshaws, at Kolencherry Junction in Ernakulam District. Then, some of the autorickshaw drivers under the leadership of 5th and 6th respondents have obstructed the petitioners from parking their vehicles at the taxi stand at Kolencherry and prevented passengers from hiring their

-: 2 :-

vehicle. They have also attempted to assault the petitioners and passengers travelling in their vehicles. Since the action of 5th and 6th respondents are illegal, the petitioners approached respondents 1 to 4 by filing representations, Exts.P3, P5, P9 and P10, requesting to provide a parking place for their vehicles and also to direct respondents 5 and 6 to maintain a peaceful atmosphere in the working place. But, till date, respondents 1 to 4 have not taken any action on the representations filed by the petitioners. So also, they have not cared to remove the unlawful obstruction made by 5th and 6th respondents against the operation of taxi service by the petitioners from Kolencherry junction. This is the grievance projected in this Writ Petition and the petitioners have sought for issuing a writ of mandamus or any other writ or direction to respondents 1 to 4 to consider Exts.P3, P5, P9 and P10 representations and allot separate stand for parking their Tata Iris Motor Cabs commonly known as Auto-Taxi.

-: 3 :-

2. Heard the learned counsel for the petitioner and learned Standing Counsel appearing for the respondent and learned Government Pleader.

3. According to Section 227 of the Kerala Panchayat Raj Act, 1994, it is obligatory on the part of the Panchayat to provide public landing places and halting places to the vehicles especially for taxi services. That apart, as per Rule 344 of the Kerala Motor Vehicles Rules, 1989, it is for the Regional Transport Authority to determine the location of parking places in consultation with the concerned Municipality or Panchayat, as the case may be, the Executive Engineer and the Superintendent of Police of the District. It is discernible from the pleadings as well as the submissions made at the Bar that in the 1st respondent Panchayat such parking places have not been provided and allotted to the taxis and autorickshaws. Therefore, the grievance projected in this Writ Petition deserves to be considered and addressed by the statutory authorities, at

-: 4 :-

the earliest.

4. In the above view of the matter, 1st and 2nd respondents are directed to consider and pass orders on Exts.P3 and P5 representations, in consultation with the other authorities provided under Rule 344 of the Motor Vehicles Rules, 1989 and after affording an opportunity of being heard, to all the affected parties, including the 7th respondent, at the earliest, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

This Writ Petition is disposed of accordingly.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge