IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 09TH DAY OF DECEMBER 2020 / 18TH AGRAHAYANA, 1942

Con.Case(C).No.751 OF 2020 IN WP(C). 3769/2018

AGAINST THE JUDGMENT IN WP(C) 3769/2018(U) OF HIGH COURT OF KERALA

PETITIONER/PETITIONER:

SIVANANDAN T.P
AGED 67 YEARS
S/O. LATE K.K. PADMANABHAN, NJRA-215, AYILYAM HOUSE, NORTH JANATHA, ERROR VASUDEVA ROAD, PALARIVATTAM, ERNAKULAM-682 025.

BY ADVS.
SRI.C.RAJENDRAN
SRI.B.K.GOPALAKRISHNAN

RESPONDENT/1ST RESPONDENT:

1 **R.S.ANU**
AGED 43 YEARS
W/O. G.JAYADEV, SECRETARY, COCHIN CORPORATION, ERNAKULAM-682 011.

***ADDL R2** **MR.RAHUL**
AGE NOT KNOWN,S/O RAGHUVARAN PILLAI,SECRETARY,COCHIN CORPORATION,ERNAKULAM-682011.

***(ADDL R2 IS IMPLEADED VIDE ORDER DTD 19/8/2020 IN IA 1/2020 IN COC 751/2020)**

***ADDL R3** **TECHNICAL EXPERT COMMITTEE**
(CONSTITUTED BY THE GOVERNMENT FOR CORPORATION OF KOCHI IN TERMS OF RULE 11A OF THE KERALA MUNICIPALITY BUILDING RULES),REPRESENTED BY THE SECRETARY,CORPORATION OF KOCH.

***(ADDL R3 IS SUO MOTU IMPLEADED AS PER ORDER DT 7/10/2020 IN COC 751/2020)**

BY ADV. SHRI.S.SUDHEESH KUMAR, SC

OTHER PRESENT:

SRI. MATHEW GEORGE VADAKKEL - SR.GP

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 09.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

This case has been filed alleging that, in spite of the directions in the judgment dated 16.11.2019, a proper Technical Expert Committee - as per Rule 11A of the Kerala Municipality Building Rules (KMBR for short) - has not been constituted by the Government; and that the Committee, in fact, constituted by them, has themselves conceded that they are incompetent to complete the task as per the provisions of the afore Rules.

2. On hearing Sri.C.Rajendran, learned counsel for the petitioner as afore, I had examined the proceedings of the Technical Committee placed on record and indited the following order on 04.11.2020:

> *"The learned Standing Counsel for the Corporation, Sri.Sudheesh Kumar, has filed a Memo dated 20.10.2020, producing the report of inspection of the Technical Committee as per the directions of this Court.*
>
> *2. However, the said report says that the Committee has not been able to assess the compensation because "more structural and geotechnical investigations have to be taken under professional supervision. The facilities are not available in our institute at present"(sic). It is needless to say that this Court is completely baffled by the stand taken by the Committee because,*

> *going by the Kerala Municipality Building Rules, the Technical Committee constituted by the Government must assess the damage and suggest protective measures, so as to fix the compensation.*
>
> *3. However, strangely, the 3rd respondent - Committee says that they are unable to do so. This definitely presents an anachronistic position as far as the statutory Rules are concerned.*
>
> *4. I therefore, direct the 3rd respondent as to why they say that they don't have the competence to fix the damages and to suggest protective measures, even though they are the Expert Committee constituted by the Government with respect to structural and geotechnical engineering aspects.*
>
> *5. The learned Senior Government Pleader is also directed to obtain instructions from the appropriate Authority of the Government as to whether another Expert Technical Committee, who are competent unlike the present one, can be constituted so as to complete the directions in the judgment effectively. "*

3. When this matter was called today, the learned Senior Government Pleader submitted that the Government has also taken a view in conformity with the afore observations of this Court and that a new order, dated 03.12.2020, has been issued, constituting a proper Technical Expert Committee, so that they can look into the complaints of the petitioner and file an

appropriate report before the Secretary of the Corporation.

4. I have examined the afore mentioned order of the Government, which has been produced along with the Memo dated 08.12.2020**,** and notice that the Government has now appointed a Technical Expert Committee for the Corporation of Kochi, with its members being in conformity with Rule 11A of the KMBR. I am therefore, of the view that this Expert Committee must now complete the task, as ordered in the judgment dated 16.09.2019.

In the afore circumstances, I close this Contempt Case directing the Technical Expert Committee now constituted through the order dated 03.12.2020, to inspect the premises in question and file their report before the Secretary of the Corporation, as expeditiously as is possible, but not later than three months from the date of receipt of a copy of this judgment.

Needless to say, once the afore exercise is completed, the petitioner will be entitled to all remedies as may be available to him in terms of law.

Sd/-

DEVAN RAMACHANDRAN

rp **JUDGE**

APPENDIX

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	A CERTIFIED COPY OF THE JUDGMENT DATED 16.11.2019 IN WPC NO.3769/2018 OF THIS HON'BLE COURT.
ANNEXURE A2	A TRUE PHOTOCOPY OF THE COVERING NOTE DATED 28.11.2019 AND ITS RECEIPT.
ANNEXURE A3	A TRUE PHOTOCOPY OF THE NOTICE DATED 2.3.2020.
ANNEXURE A4	A TRUE PHOTOCOPY OF THE LETTER ISSUED BY THE ASST. EXECUTIVE ENGINEER, COCHIN CORPORATION DATED 26.08.2020
ANNEXURE A5	A TRUE PHOTOCOPY OF THE PETITION DATED 28.8.2020
ANNEXURE A6	A TRUE PHOTOCOPY OF THE REPORT SUBMITTED BY ANIL KUMAR AND P.P. SIVAN DATED 7.11.2017
ANNEXURE A7	A TRUE PHOTOCOPY OF THE COMPLAINT DATED 17.01.2020 SUBMITTED BY THE PETITIONER BEFORE THE S.P. ERNAKULAM
ANNEXURE A8	A TRUE PHOTOCOPY OF THE RECEIPT OF THE SAID COMPLAINT DATED 17.01.2020
ANNEXURE A9	A TRUE PHOTOGRAPHS SHOWING THE MEMBERS WHO CAME TO THE DAMAGED BUILDING OF THE PETITIONER ON 4.9.2020
ANNEXURE A10	A TRUE PHOTOCOPY OF THE REPLY DATED 2.3.2019 ISSUED BY THE GEOLOGIST AND STATE PUBLIC INFORMATION OFFICER, ERNAKULAM.
ANNEXURE A11	A TRUE COPY OF THE CERTIFICATE ISSUED BY GEOLOGICAL DEPARTMENT

RESPONDENT'S EXHIBITS:

ANNEXURE R1	A TRUE COPY OF THE REPORT, THE EXPERTS INSPECTED THE SITE ON 4.12.2017 AND SUBMITTED A REPORT TO THE SECRETARY
ANNEXURE R2	A TRUE COPY OF THE LETTER DATED 7.6.2020 ISSUED BY THE EXPERT COMMITTEE MEMBERS TO THE SECRETARY
ANNEXURE R3	A TRUE COPY OF THE LETTER DATED 7.6.2020 ISSUED BY THE EXPERT COMMITTEE TO THE SECRETARY