

N.A.Kareem Vs. Rahim

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SooperKanoon Citation : sooperkanoon.com/1130993

Court : Kerala

Decided On : Feb-28-2014

Judge : Honourable Mr.Justice C.T.Ravikumar

Appellant : N.A.Kareem

Respondent : Rahim

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR FRIDAY, THE 28TH DAY OF FEBRUARY 2014 9TH PHALGUNA, 1935 WP(C).No. 2958 of 2014 (T)

----- PETITIONERS: ----- 1. N.A.KAREEM AGED 62 YEARS S/O.ABDUL RAHIM, NADUVILEKANJIRATHINKAL MANAPPATTIPARAMBU, KALOOR KOCHI-17 (PRESIDENT MANAPPATTIPARAMBU RESIDENTS ASSOCIATION) 2. P.A. FASALUDHEEN PALLIPPADU HOUSE, MANAPPATTIPARAMBU, KALOOR KOCHI-17 (SECRETARY MANAPPATTIPARAMBU RESIDENTS ASSOCIATION) BY ADVS.SRI.T.P.PRADEEP SRI.P.K.SATHEES KUMAR RESPONDENTS: ----- 1. RAHIM VADAKKATHU HOUSE, MANAPPATTIPARAMBU, KALOOR KOCHI-17 2. RASHEED PARAKKULAM, KALOOR PO - 686 668.

3. CORPORATION OF COCHIN REPRESENTED BY ITS SECRETARY, KOCHI 682001 4. SECRETARY CORPORATION OF COCHIN, KOCHI 682001.

5. CORPORATION COUNCIL OF COCHIN REPRESENTED BY ITS MAYOR CORPORATION OF COCHIN, KOCHI682001 BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON2802-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 2958 of 2014 (T) ----- APPENDIX PETITIONERS' EXHIBITS ----- EXT.P1 - TRUE COPY OF THE LICENSE ISSUED BY THE4H RESPONDENT EXT.P2 - TRUE COPY OF THE APPROVED PERMIT AND PLAN OBTAINED UNDER THE RIGHT TO INFORMATION ACT. EXT.P3 - TRUE COPY OF THE REPRESENTATION PREFERRED TO THE4H RESPONDENT DATED1812-2013 EXT.P4 - TRUE COPY OF THE REPRESENTATION PREFERRED TO THE5H RESPONDENT DATED3010-2013 EXT.P5 - TRUE COPY OF THE REPRESENTATION PREFERRED TO THE5H RESPONDENT DATED1812-2013 EXT.P6 - TRUE COPY OF THE APPEAL DATED1812-2013 EXT.P7 - TRUE COPY OF THE WPC.NO.26286/2013 DATED2310-2013 RESPONDENT(S)' EXHIBITS: NIL ----- // TRUE COPY // TKS P.S. TO JUDGE C.T.RAVIKUMAR, J.

----- W.P.(C)No.2958 of 2014 ----- Dated
28th February, 2014

JUDGMENT

The petitioners claim to be respectively the President and Secretary of Manappattipparambu Residents Association. Respondents 1 and 2 were granted licence to start a lodge under the name and style of 'SRM Residency' by the third respondent. The contention of the petitioners is that originally licence was granted only for construction of a residential building. A lodge falls under occupancy Group A2 - Special residential occupancy and the requirements of a special residential occupancy were not satisfied in the construction of the building in question, it is contended. The petitioners have preferred Ext.P6 appeal, in the said circumstances, before the Council of the third respondent Corporation viz. 5th respondent. This writ petition has been filed mainly seeking quashment of Ext.P1 licence and to issue a writ of mandamus commanding the 5th respondent to consider and dispose of Ext.P6 appeal preferred against Ext.P1.

2. As noticed hereinbefore, the contention of the petitioners is that permit was granted originally only for constructing a residential building and on the strength of the said permit what was constructed is WP(C).No.2958/2014 2 a Group A2 - Special residential occupancy. It is to be noted that even after making such an allegation in the writ petition the petitioners have not chosen to make the owners of the building in question as parties to this writ petition. In such circumstances, this Court will not be justified in making any observation regarding those aspects. At the same time, it is evident that the petitioners have already preferred Ext.P6 appeal and the learned standing counsel appearing for respondents 3 to 5 submitted that the said appeal is still pending. Since the appeal is pending it will be inappropriate for this Court to make any observation regarding the merits of the contentions raised by the petitioners as essentially, those are matters to be looked into by the appellate authority, in accordance with law. At the same time, any such orders on Ext.P6 might adversely affect the owners of the building and in such circumstances, before passing orders thereon they are also to be put on notice. In the above circumstances, without making any observation as to the merits of the contentions raised by the petitioners in this writ petition as also in Ext.P6 appeal, this writ petition is disposed of with a direction to the 5th respondent to consider Ext.P6 appeal expeditiously and in accordance with law, at any rate, within a period of six weeks WP(C).No.2958/2014 3 from the date of receipt of copy of this judgment. Before passing orders thereon respondents 1 and 2 and the owners of the building in question shall also be put on notice. Sd/- C.T.RAVIKUMAR Judge
TKS