

M.Uma vs the Secretary

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Court : Kerala

Decided On : May-31-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/17570/2023

Appellant : M.UMA

Respondent : The Secretary

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945
WP(C) NO. 17570 OF 2023 PETITIONER: MRS. M.UMA, AGED 66
YEARS W/O LATE V. VIJAYANAND VARAMMEL LANE PERANDOOR,
ELAMAKKARA, KOCHI, PIN - 682026 BY ADVS. SANTHOSH PETER
(MAMALAYIL) P.N.ANOOP M.S.SANDEEP SUDHAKARAN ROHIT
LOBO RESPONDENTS: 1 THE SECRETARY MUNICIPAL
CORPORATION, KOCHI, PIN - 682011 2 VARGHESE K. VARGHESE
S/O VARGHESE, KUZHIVELIL VARAMMEL LANE, PERANDOOR,
ELAMAKKARA, KOCHI, PIN - 682026 BY SRI.K.JANARDHANA
SHENOY, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR

ADMISSION ON 31.05.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: :2 :

JUDGMENT

----- Dated this the 31st day of May, 2023 The petitioner is a widow and senior citizen. The petitioner along with his son and family is residing in her property at Division 48 of Kochi Corporation. The adjacent property owner of the petitioner, the 2 nd respondent, in the eastern side of the property of the petitioner has constructed his new house in September, 2019 and raised the height of the compound wall on the eastern side of the property of the petitioner without considering the objection raised by the petitioner.

2. The petitioner states that the 2nd respondent

forcefully raised 2 feet height of the compound wall which was in possession of the petitioner from 1985 onwards. By raising the height of the compound wall by 2 feet now total height of the compound wall is 7.10 feet and it is making easy access to :3 : persons including anti-social elements to the first floor of the petitioner's house which causes threat and danger to the peaceful living of the petitioner at her home.

3. The petitioner had made Ext.P1 representation dated 20.12.2019 itself before the 1st respondent stating all the above difficulties. The 1st respondent had received Ext.P1

representation but no action has been taken. Again the petitioner submitted Ext.P2 reminder and even after passing of years, the 1st respondent has not taken any action till date.

4. Standing Counsel entered appearance on behalf of

the 1st respondent and submitted that if the petitioner has filed Ext.P1 representation, since it relates to unlawful constructions violating the provisions of the Kerala Municipal Building Rules, the same can be considered in accordance

with law.

5. I have heard the learned counsel for the petitioner

and the learned Standing Counsel representing the 1st respondent. In view of the nature of the relief to be granted in this writ petition, notice to the 2 nd respondent is dispensed with. :4 :

6. The allegation of the petitioner is that the 2 nd respondent has made some unlawful construction on the compound wall of the petitioner. If such constructions are made, indeed those are likely to be in violation of the Kerala Municipal Building Rules. If the petitioner has raised her grievance in this regard, the same has to be considered in accordance with law. In the circumstances, the writ petition is disposed of

directing the 1st respondent-Secretary to consider Ext.P1 representation submitted by the petitioner and take a decision thereon within a period of six weeks, after giving an opportunity of hearing to the petitioner and the 2 nd respondent. It is made clear that I have not pronounced anything on the alleged constructions made.

Sd/- N. NAGARESH JUDGE sss :5 : APPENDIX OF WP(C) 17570/2023
PETITIONER'S EXHIBITS EXHIBIT P1 TRUE COPY OF THE COMPLAINT
DATED 20.12.2019. EXHIBIT P2 TRUE COPY OF THE REMINDER LETTER
DATED 15.06.2020.

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