

John Chandy vs the District Collector,

John Chandy vs the District Collector,

SooperKanoon Citation : sooperkanoon.com/1368281

Court : Kerala

Decided On : Jan-18-2023

Judge : Honourable Mr. Justice Amit Rawal

Appeal No. : WP(C)/16331/2021

Appellant : John Chandy

Respondent : The District Collector,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
WEDNESDAY, THE 18TH DAY OF JANUARY 2023 / 28TH POUSHA,
1944 WP(C) NO. 950 OF 2023 PETITIONER: ARAKKANATTIL
OOMMEN IYPE ARAKKANATTIL PUTHENVEEDU, PIRALASSERY
P.O., CHENGANNUUR, ALAPPUZHA DISTRICT - 689122
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER SUJA
MATHEW GEORGE, AGED 49 YEARS, W/O MATHEW GEORGE,
KOPPARA NAMBIMADOM HOUSE, VETTUVENI (NEAR NH 47)
HARIPAD, ALAPPUZHA - 695014

BY ADVS. P.S.BIJU AMEER SALIM RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE SECRETARY GOVERNMENT OF KERALA, DEPARTMENT OF LABOUR AND SKILLS DEVELOPMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001 2 KOTTAYAM MUNICIPALITY REPRESENTED BY ITS SECRETARY, KOTTAYAM MUNICIPAL ADMINISTRATION OFFICE, JOYEES ARCADE, YMCA ROAD, KOTTAYAM - 686001 BY ADVS. SRI.AJIT JOY - SC SMT. K.R.DEEPA - SPL. GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18.01.2023, ALONG WITH WP(C).4986/2020, 16331/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
WEDNESDAY, THE 18TH DAY OF JANUARY 2023 / 28TH POUSHA,
1944 WP(C) NO. 4986 OF 2020 PETITIONER: RAJAMMA JOSEPH
AGED 68 YEARS W/O. P.V. JOSEPH, PALAKKALODI VEEDU,
EARAYILKADAVU, KOTTAYAM - 686 601 BY ADVS. JOMON J.
MALIEKAL SHRI. HRITHWIK D. NAMBOOTHIRI SRI.PEEYUS
A.KOTTAM RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001
2 T.K. JOSE ADDITIONAL CHIEF SECRETARY, PUBLIC WORKS
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001 3 ADDITIONAL CHIEF
SECRETARY LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001
4 THE CHIEF TOWN PLANNER THIRUVANANTHAPURAM - 695 003 5
THE DISTRICT TOWN PLANNER KOTTAYAM - 686 001 6 DISTRICT
COMMITTEE FOR REGULARISATION OF UNAUTHORISED
CONSTRUCTIONS, KOTTAYAM, REPRESENTED BY ITS
CONVENER, OFFICE OF THE DISTRICT TOWN PLANNER,

KOTTAYAM - 686 001 7 THE DIRECTOR LOCAL SELF GOVERNMENT DEPARTMENT, THIRUVANANTHAPURAM - 695 001 8 KOTTAYAM MUNICIPALITY REPRESENTED BY ITS SECRETARY, KOTTAYAM - 686 001 9 ARAKKANATTIL OOMMEN IYPE AGED 63 YEARS S/O. A.E.OOMMEN, ARAKKANATTIL PUTHENVEEDU, PIRALASSERY P.O., CHENGANNUR, ALAPUZHA DISTRICT, PIN - 689 122 BY ADVS. SRI.C.M.NAZAR, SPL.GOVERNMENT PLEADER (LSGD) SRI.SIBY CHENAPPADY, SC, KOTTAYAM MUNICIPALITY SRI.V.PHILIP MATHEW AJIT JOY, SC, KOTTAYAM MUNICIPALITY SMT. KR. DEEPA - SPL GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18.01.2023, ALONG WITH WP(C).950/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
WEDNESDAY, THE 18TH DAY OF JANUARY 2023 / 28TH POUSHA,
1944 WP(C) NO. 16331 OF 2021 PETITIONERS: 1 JOHN CHANDY
AGED 55 YEARS S/O CHANDY JOHN, VATTAKUNNELPULICKAL
HOUSE, EARAYLKADAVU, KOTTAYAM-686001. 2 VARGHESE
THOMAS AGED 38 YEARS S/O A.C.THOMAS, PUNNAPARAMBIL
HOUSE, THEKKUMGOPURAM, KOTTAYAM-686001. BY ADVS. SAJI
MATHEW DENU JOSEPH BIBIN BABU RESPONDENTS: 1 THE
DISTRICT COLLECTOR, KOTTAYAM COLLECTORATE,
COLLECTORATE P.O, PIN-686002. 2 GOVERNMENT OF KERALA
REPRESENTED BY ITS REVENUE SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM-695001. 3 TAHSILDAR KOTTAYAM TALUK,
TALUK OFFICE, NEAR UNION CLUB, KOTTAYAM-686001. 4
TAHSILDAR(LR) TALUK OFFICE, NEAR UNION CLUB, KOTTAYAM-
686001. 5 VILLAGE OFFICER MUTTAMBALAM VILLAGE,
COLLECTORATE P.O, OPPOSITE RUBBER BOARD HEAD OFFICE,
PIN-686002. 6 KOTTAYAM MUNICIPALITY MUNICIPAL BUILDING,
KOTTAYAM, PIN-686001, REPRESENTED BY ITS SECRETARY. 7

UMMEN IYPE AGED 64 YEARS S/O A.E.UMMEN, ARAKKANATTIL PUTHEN VEEDU, PIRALASSERY P.O, CHENGANOOR-689122. BY ADVS. SHRI.SIBY CHENAPPADY, SC, KOTTAYAM MUNICIPALITY V.PHILIP MATHEW AJIT JOY, SC, KOTTAYAM MUNICIPALITY SMT.K.R.DEEPA - SPL. GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18.01.2023, ALONG WITH WP(C).950/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[WP(C) Nos.950/2023, 4986/2020, 16331/2021]

Typographical errors are corrected suo motu and judgment

uploaded again. This order of mine shall dispose of three writ petitions. W.P.(C).No.950/2023 titled as Arakkanattil Oommen Iype v. State of Kerala and Another (hereinafter called first writ petition), a senior citizen, an NRI, has sought the indulgence of this Court by seeking following reliefs: i) Issue a writ in the nature of mandamus or any other appropriate writ or directions, directing the 1 st respondent to consider Ext.P1 representation and take appropriate action in accordance with law expeditiously and within a time fixed by this Honble Court. ii) Issue such other order or direction , as this Honble Court deems fit and proper, in the interest of justice.

2. Writ petition bearing No.16331 of 2021 titled as John

Chandy and Another v. District Collector, Kottayam and Others (hereinafter called second writ petition) claiming following reliefs: a) To issue a writ of mandamus or any other appropriate

writ, order or direction directing the Respondents 1, 3, 4 & 5 to permit the Petitioner to participate in the process of identification of government puramboke land-as initiated through Exhibit P4 notice by giving 7 days advance notice with liberty to engage independent surveyors and by

providing/sharing the copy of such documents relied upon by the Respondents to conduct the survey.

b) To issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondents 1, 3, 4 & 5 to share all the documents including survey map or such other records relied on by them to identify government puramboke as initiated through Exhibit P4 notice to the Petitioners. c) To issue a writ of certiorari or any other appropriate writ, order or direction calling for the records of the 4th Respondent or such other authority pursuant to the measurement done on 30.07.2021 based on Exhibit P4 notice and to quash the same. d) To grant such other relief's that may be deemed fit and proper by this Hon'ble Court in the circumstance of the case and also to allow the Petitioners to realize the cost of the proceedings from Respondents.

3. Writ petition bearing No.4986 of 2020 titled as

Rajamma Joseph v. State of Kerala and Others (hereinafter called third writ petition) wherein Ext.P28 order dated 17.02.2020 of the Additional Chief Secretary dismissing the review petition, filed against the order of regularization of construction, has been assailed. The question of law and facts in these writ petitions are common, therefore, are decided together.

4. Petitioner in the first case, 7th respondent in the

second case and 9th respondent in the third case are the same person, hereinafter represented by name Shri.lype. Before advertng to the contentions of the learned counsel representing the parties, it would be necessary to give chronological dates of events.

(a) On 02.02.2010, vide sale deed of even date, Shri.lype

purchased 1.22 hectors of property in Re-survey No.13 Block No.78 of Muttambalam Village along with the building bearing door Nos.11/688 and 11/689 of Municipality, Kottayam on a built- up area of 560 square meters, allegedly adjacent to the property owned by the petitioner in the third writ petition, hereinafter referred to as Smt.Rajamma.

(b) Buildings according to Shri.lype, was about 65 years

and above old and used for godowns for storing plywood sheets. It was decided to convert the building as a convention centre by retaining building Nos.XI/688 and XI/689. The old buildings were modified and strengthened by taking into consideration the requirements of Rule 55 of Kerala Municipality Building Rules, 1999.

(c) An application dated 24.02.2016 was submitted to the competent authority to permit the use of building as a convention centre. However, prior to that, there was a provisional order to stop the construction.

(d) On 04.04.2016, Smt.Rajamma filed an application for

lay out, but the construction went on. On the basis of complaint filed by one Annamma Varghese to the Municipality, stop memos dated 28.1.2016 and 21.07.2017 were issued. Writ petition bearing No.37534/2017 was preferred by the son of Smt.Rajamma seeking implementation of the stop memo. Vide interim order dated 22.11.2017 of this court, a direction was issued to the competent authority for completion of the proceedings against Shri.lype under Section 406 of the Kerala Municipality Act.

(e) In the meantime, Government of Kerala promulgated

Kerala Municipality Building (Regularisation of Unauthorised Construction) Rules, 2018, (hereinafter called 2018 Rules for short). Accordingly, an application dated 09.03.2018 for regularisation of unauthorised construction was submitted, by Shri.lype, in Form 1A with Appendix-10, wherein, certain columns, required to be tick marked, were filled up. The said columns contained various requirements like receipt of the payment of the application fees, drawings, site plans, documents of ownership, parking plan, proof of stopping the unauthorised construction and valid registration of the licence.

(f) W.P(C) No.33862 of 2018 was filed by Smt.Rajamma

challenging the order 8.5.2018 of the secretary and proceedings of the Town Planner dated 23.8.2018 taking follow up action on the application of Shri.lype for regularization of the construction. Similarly orders dated 14.2.2019 bearing No.RA3/14/19 by the Office of the Chief Secretary, No.G25542/16 dated 25.2.2019 of the Director of LSGI directing regularization of the building were also challenged by Smt.Rajamma in Writ petition bearing No.12159/2019. In the mean while, Shri.lype filed W.P.(C).No.32413 of 2018 whereby

order dated 23.08.2018 of the Town Planner was challenged to

the extent of forwarding application to the monitoring committee, not the least, but another W.P.(C).No.29972/2019 for issuance of occupancy certificate.

(g) During the interregnum, an order of regularisation

dated 25.03.2019 was passed by the Additional Chief Secretary imposing 13 (thirteen) conditions. The grievance of all the affected parties ie., parties who are against the construction of convention centre, were that in the absence of any demarcation of report much less the occupation of puramboku land, unauthorised construction could not have been regularised by imposing certain conditions. All the five writ petitions were disposed of by the judgment of this Court dated 16.11.2019 Ext.P17(a) whereby the Secretary, Kottayam Municipality was directed to hear all the petitioners and take a decision whether Shri.lype had complied with the conditions enumerated in the order. As a result thereof, a hearing was conducted on

15.11.2019 and the regularisation granted by the previous order was upheld by reducing the thirteen (13) conditions in the order

dated 25.3.2019 to 8 (eight), before the judgment was delivered in the writ petitions ie., the day before.

(h) The aforementioned order as well as the minutes dated

13.11.2019 of office of the Additional Chief Secretary, Local Self Government were assailed by Smt.Rajamma by preferring W.P. (C).No.31302 of 2019 and this Court, vide judgment dated 16.12.2019 disposed of the same, setting aside the minutes and the consequential orders ie., orders dated 15.11.2019 and 19.11.2019 whereby Kottayam Municipality regularised the building of Shri.lype, and liberty was granted to Smt.Rajamma to prefer a review under Rule 10 of 2018 Rules.

(i) In the meantime, Shri.lype filed a writ petition bearing

No.23611 of 2019 and challenged the notice of measurement of the property on various grounds. Also, another neighbours John Chandi and Varghese Thomas filed W.P.(C).No. 21940 of 2019 on the allegation of encroachment of puramboku land whereby for the first time, the allegation of encroachment of puramboku

land was levelled against Shri.lype. This Court vide judgment

dated 22.06.2021 dismissed the writ petition of Shri.lype and disposed of the writ petition of other neighbours John Chandi and others by issuing directions to Tahsildar to conclude the proceedings initiated pursuant to the notice of demarcation with notice to all concerned, including Shri.lype, in accordance with law and ascertain whether Shri.lype had encroached upon any Government land. The said exercise was directed to be done within a period of six weeks and in case it was found that Shri.lype had encroached upon any Government land, appropriate proceedings in accordance with law against encroachment should be taken.

(j) In pursuance to the directions contained in the

judgment dated 16.12.2019 in W.P.(C).No.31302/2019,

Smt.Rajamma filed a review petition dated 01.01.2020, under the rules ibid, before the competent authority.

5. The cumulative reading of the aforementioned facts

reveals that two parallel proceedings continued, one before the Chief Secretary with regard to the unauthorised construction and other with regard to the demarcation to ascertain the alleged encroachment of the puramboku land. A notice was issued to all the parties for demarcation which has been challenged by Jhon Chandi and Others in the second writ petition ie., W.P.(C).No.16331 of 2021, for permission to participate in the process of identification of the Government Puramboku land by giving seven days advance notice with liberty to engage independent surveyors and for sharing the copy of the documents including survey map and other reports as also for quashing of notice dated 30.07.2021 for holding the demarcation.

6. When the proceedings were pending before the

Additional Chief Secretary, W.P.(C).No.1840/2020 on behalf of Smt.Rajamma was filed for directions to Government to appoint different officer for deciding the review petition as well as the prayer of Shri.lype seeking regularisation of the unauthorised construction. The said writ petition on 23.01.2020 was withdrawn. Vide order dated 17.02.2020 Ex.P28 in the third writ petition, Additional Chief Secretary dismissed the review petition and regularised the building of Shri.lype by imposing 8 (eight) conditions. It is the aforesaid order which is under challenge in the third writ petition bearing No.4986 of 2020.

7. The bone of contention in the second and third writ

petitions is that the adjacent neighbours have not been given an opportunity in the proceedings of demarcation and therefore, the said proceedings could not culminate and deletion of two conditions while regularisation of unauthorised construction alleged to be against the provisions of 2018 Rules.

8. Order Ext.P28 dated 17.02.2020 has been assailed on various grounds by relying upon the provisions of Rules 3, 3(C),

(K) and Rule 6(4). The aforementioned Rules, according to the

learned counsel appearing on behalf of Smt.Rajamma, mandates that a person seeking regularisation of the unauthorised construction must place on record the

copy of the land deed and title of the land, in the absence of which regularisation as ordered by the Chief Secretary is wholly vitiated in law. Smt.Rajamma is the immediate neighbour and her son purchased the property in respect of e-auction conducted by the Bank under the provisions of SARFAESI Act. The said auction was held in 2007 and the possession was given in 2008, though the sale certificate was issued only in February,

2021. It is a residential zone and the commercial construction

cannot be permitted to be done. Deletion of the conditions is in complete defiance to the aforementioned Rules and therefore, the order is per se without jurisdiction, not tenable and sustainable in the eyes of law.

9. On the other hand, Sri.Philip Mathews representing

Shri.lype raised the objection qua the locus standi and maintainability of the third writ petition on the ground that the petitioner therein Smt.Rajamma is not the owner of the property but her son, who earlier filed the W.P.(C).No.37534 of 2017, and there is a concealment of pendency of two civil suits bearing Nos.329 of 2018 by the son namely J.G.Palackalody and O.S.No.402 of 2019 by her husband viz., P.V.Joseph before the Munsiff Court. Identical relief seeking restraint order against the official respondents from regularisation of unauthorised construction in scheduled item No.II by issuing a prohibitory injunction and for taking appropriate steps for demolition of unauthorised construction and also for not issuing the change of occupancy of the building etc have been sought in the suits.

10. It was also contended that the grievance of Rajamma

before the collector was that she was not against the running of the convention centre, but was only affected of illegal construction and encroachment into her land.

11. Shri.lype in the first writ petition W.P.(C).No.950 of

2023 alleged that crores of rupees for running a convention centre has been spent and have employed hundred workers much less paying them remuneration. A

representation dated 29.12.2022 was submitted to the Secretary, Department of Labour and Skills Development for holding a conciliation proceedings as the workers are forcing for taking appropriate legal proceedings.

12. In support of the contention regarding the

maintainability and suppression of the fact, reliance has been laid to the Division Bench judgment of this Court in Ismail Kunju and Another v. Panmana Grama Panchayath, Kollam and Others [2013 (4) KHC 860] and judgment of Supreme Court in S.P.Chengalvaraya Naidu (dead) by LRS v. Jagannath (dead) by LRS and Others [1994(1) SCC 1].

13. It was next contended that family members cannot be

permitted to indulge into forum shopping by filing multiple suits as well as the writ petition without disclosing the fact. In fact, in the judgments, relied upon by the petitioners in the second and third writ petitions, there is no discussion of the pendency of the suit and had there been a discussion, perhaps there would not have been any directions.

14. The contention of the petitioner in the second writ

petition is that the surveyor appointed by the Government was not independent and there was possibility of partiality and therefore an independent surveyor be appointed and they should be granted an opportunity to participate in the demarcation proceedings and supplied copy of the documents.

15. Learned counsel representing Shri.lype countered the

argument on the ground that the said neighbours did not have any document to establish the alleged encroachment of the Pruamboku land, residential zone and wanted to build the case by intervention of this Court. This court while exercising the power of judicial review cannot hold a roving enquiry and pass an order as per the whims and fancies of the affected parties. Though notice dated 30.07.2021 was given, Smt.Rajamma did not participate but approached this Court. Such act is wholly contumacious.

16. Learned Government Pleader supported the

impugned order by submitting that the application of Shri.lype for regularisation of the building under the Kerala Municipality Building (Regularisation of Unauthorised Construction) Rules, 2018 was submitted to Secretary of the Kottayam Municipality. The aforementioned application was forwarded to the District Town Planner and on scrutiny, several defects were found. Again a revised plan/application to the Secretary, Kottayam Municipality was submitted and forwarded to District Town Planner but there were some lacunae. In Form 1C another application for regularization, was submitted, to the Regularisation Committee with a technical report. Regularisation Committee was convened by the District Town Planner and decided to forward the application for further clarification to the monitoring committee constituted under Rule 12 (Constitution and Functioning of the Monitoring Committee) of 2018 Rules. On submission of the structural stability certificate before the Secretary, Kottayam, Government directed the Director Urban Affairs to give necessary directions to Secretary, Kottayam Municipality for taking necessary action for regularisation of the building of Shri.lype.

17. District Level Monitoring Committee (hereinafter called

DLMC for short) considered the application on 25.03.2019 and issued order with certain conditions for regularisation of the building and also imposed the compounding fee of Rs.14,39,688/-. The said amount was deposited by Shri.lype in Government Treasury and furnished the challan. But, still the building was not regularised necessitating owner to make a representation to the Government on 27.06.2019. Government considered the application, convened a meeting of the officials in the Local Self Department chaired by Additional Chief Secretary on 13.11.2019. Order of the DLMC was reviewed by

the Government and issue relating to puramboke land was held

to be dealt by the Revenue Department and direction was issued to the Regularisation Committee to follow the Rules falling under Kerala Municipality Building Rules, 1999 and 2018 Rules. Vide letter dated 14.11.2019 Ext.R3(C) in

the third writ petition DLMC was directed to modify the order for regularisation of the building.

18. In compliance of the Government Order, DLMC

revised the order and issued the proceedings dated 15.11.2019, condition Nos.1, 4, 8, 10 and 11 were deleted. Direction was issued to Secretary, Kottayam Municipality for taking steps for regularisation of the convention center. W.P. (C).No.31302/2019 was preferred by Smt.Rajamma and vide

judgment dated 16.12.2019, this Court directed the

Government to consider the review petition preferred by her. In

compliance of the aforementioned judgment, sittings were held

on 13.01.2020 and 06.02.2020 and ample opportunity was given to Smt.Rajamma. She was represented by a lawyer and after considering the versions of respective parties and on

examination of the documents submitted by the parties, order

dated 17.02.2020, Ext.P28 in the third writ petition, for regularisation of convention centre was passed.

19. Rules 3 to 10 of 2018 Rules prescribe the procedure

for disposal of application for regularisation of unauthorised construction. Rules 10 and 11 of 2018 Rules give ample powers to the Government to dispose of the application for regularisation filed by any parties. It was under the aforementioned Rules, 2nd respondent in official capacity considered the application and passed the order dated 17.02.2020.

20. Learned counsel representing the Municipality also adopted the argument submitted by the learned Government Pleader.

21. I have heard the learned counsel for the parties and appraised the paper books.

22. Before examining the documents of respected parties

on merit, it would be appropriate to deal with the objection qua locus standi and maintainability. Concededly, Smt.Rajamma is not the owner of the property adjacent to the property of Shri.Iype who has constructed the convention center. Both son and father as per the facts noticed above, filed civil suits bearing Nos.329/2018 and 402 of 2019 wherein the following reliefs have been claimed: civil suit bearing No.329/2018

1. Restraining the defendants 2 to 6 from regularizing the unauthorized constructions in the Plaint schedule item No.II property by an order of permanent prohibitory injunction.

2. Direct the 1st defendant to take appropriate action for demolition of the unauthorized construction in the Plaint schedule item No.II property by an order of mandatory injunction.

3. Restraining 2nd the 3rd defendant from permitting

change of occupancy of the building situated in Plaint schedule item No.II property into a convention center by allotting a building number and license to run the convention centre in the Plaint schedule item No.II by an order of permanent prohibitory injunction.

4. To realize the cause of the suit from the defendants.

5. To allow such other relief or reliefs which deems fit as proper to this Hon'ble Court. civil suit bearing No.402 of 2019

1. Restraining the defendants 2 and 3 from regularizing the unauthorized constructions in the Plaint schedule item No.II property by an order of permanent prohibitory injunction.

2. Direct the 1st defendant to take appropriate action for demolition of the unauthorized construction of the Plaintiff schedule item No.II property by an order of permanent prohibitory injunction.

3. Restraining the 3rd defendant from permitting change of occupancy of the building situated in Plaintiff schedule item No.II property into a convention center by allotting a building number.

4. To realize the cause of the suit from the defendants.

5. To allow such other relief or reliefs which deems fit as proper to this Hon'ble Court.

23. On perusal of the above, it is evident that identical

relief as sought in suits of 2018 and 2019 has also been sought in the third writ petition filed in 2020. The reliefs for the sake of brevity, as sought, again, are extracted herein below:

i) To call for the entire records leading to Ext.P28 order

passed by the 3rd respondent and quash the same by Issuing a writ of certiorari or any other appropriate writ, order or direction".

(ii) Issue a writ of mandamus or any other appropriate

order or direction and thereby command the 8th

respondent municipality not to regularize the illegal construction carried by the 9th respondent in violation of Kerala Municipality Building Rules, 1999 and also in violation of Kerala Municipality (Regularization of Unauthorized Construction) Rules, 2018.

(iii) Grant such other reliefs, which are just and necessary in the interest of justice and deem fit, just and proper.

24. In all three legal proceedings three different family

members have taken identical relief. No doubt Shri.lype in the application submitted to the authority admitted the distance of the property owned by the son of Smt.Rajamma but that could not help in any manner, for, no demarcation report or revenue record have been placed on record. While dealing with the writ petitions particularly writ petition preferred by Shri.lype and neighbour John Chandi and another, this Court was not apprised the pendency of the Civil Suits as the judgment came to be passed in W.P.(C).No.21490/2019 and 23166 of 2019 on 22.06.2021. It is settled law that a person cannot be permitted to indulge into multiple litigation, as noticed above, for claiming identical relief by withholding information of pendency of the suit on behalf of the son and husband. A party must establish a legal right for performance of the legal duty in support of the relief sought for. The Division Bench of this Court in K.C.T.Steel Private Limited v. State of Kerala and Others [2016 (4) KHC 336] in paragraph 15 observed that there has to be an existing legal right or duty in the absence of which, writ petition would not lie. For maintaining a writ of mandamus first and foremost requirement is, the writ petition should not be frivolous and must be filed in good faith. It is settled law as per S.P.Chengalvaraya Naidu (supra) that the person who does not come to the Court with clean hands should be dealt with heavily at any stage of the proceedings. No explanation has come forth either in the rejoinder to the reply/counter filed on behalf of Shri.lype regarding the nondisclosure of the pendency of the suits claiming identical relief. It appears to be a mischievous act on behalf of Smt.Rajamma.

25. Even otherwise, Smt.Rajamma petitioner in the third

writ petition is not owner of the property, thus does not have a locus standi to challenge the order de hor of the fact that she was given a permission to file review as this fact was not deliberated in the previous judgments of this court except objection qua public or private interest. Thus I am of the prima facie view that the third writ petition is wholly contumacious, is an attempt to deprive this Court from the notice of the pendency of the suits and mislead this Court.

26. It would be appropriate to re-produce relevant provisions of 2018 Rules.

1.Short title, and commencement and applicability.- (1) These Rules may be called the Kerala Panchayat Building (Regularisation of Unauthorised Construction) Rules, 2018. (2)These rules shall come into force at once. (3)These rules shall apply to unauthorized constructions carried out on or before the 31st day of July, 2017 in any Grama Panchayat area in the state. Clause 3

3. Submission of application for regularization of

unauthorised Construction.- (1) Application for regularization of unauthorised construction declaring the details pertaining to the unauthorised construction shall be submitted to the Secretary in Form 1-A appended to these Rules, in duplicate, and the application fee specified in rule 4 within 90 days of the date of notification of these Rules in the Kerala Gazette.

(2) The application shall be accompanied by the following documents, namely:-

(a) Receipt for payment of application fee, if any paid to the Grama Panchayat as per rule 4 of these rules;

(b) Three copies of the floor plans, elevations and

sections of the buildings constructed, the site plan, building plan and wherever applicable the service plans, parking plans drawn as provided in sub-rule (11) of rule 7 of Building Rules, and specification there under,- (i)Certified by the owner to the effect that "this is the drawings having reference to the details furnished in Form 1-A and documents enclosed along with" (ii)Certified by the licensee to the effect that "this is the drawings having reference to the details furnished in Form 1-A and documents enclosed along with and that the details and measurements therein conform to actual constructions made in the site. I further certify that the unauthorised buildings is/are structurally stable (applicable in the case of unauthorised construction with the exception of high rise buildings or telecommunication towers). (iii)Certified by a Structural Engineer to the effect that "the unauthorised high rise buildings/unauthorised telecommunication towers or the building above which unauthorised telecommunication tower is erected as per

the drawings and Form I-A enclosed herewith is/are structurally stable: Provided that in the case of huts, a site plan showing the outline of the built-up area, the boundaries of the plot and nearby streets, duly signed by the owner is only required:

Provided also that in the case of constructions under approved schemes as mentioned in rule 72 of the Building Rules with total Floor area of building up to 60 sq. meters and number of floors limited to two and a stair room, where the construction has to be done by individuals separately, a site plan showing the outline of the built-up area, the boundaries of the plot and the near by streets, duly signed by the owner only is required:

Provided further that the unauthorised construction applied for regularisation shall be indicated in red colour outline in all the drawings submitted.

(c) Documents to prove ownership of land;

(i) Copy of land deed

(ii) Copy of latest tax receipt

(iii) Copy of latest possession certificate

(iv) Copy of BTR certificate

(v) Attested Copy of the survey sketch from revenue department

(d) Time stamped photographs of the unauthorised

buildings applied for regularization under these rules (minimum of 4 numbers from all four sides showing all external details of development) which is to be attested by the owner and the licensee

(e) Proof of having completed or carried out the construction on or before the 31st day of July 2017;

- (f) Proof of valid Registration of the licensee;
- (g) Proof of qualification of Structural Engineer who has issued the structural stability certificate;
- (h) Copies of the document(s) regarding Court cases (Courts, Tribunal, Ombudsman etc.) pertaining to or of reference to the plot or constructions therein;
- (I) Any Government orders, circulars, any form of communication(s) pending to the plot/land or any construction works therein;
- (j) Proof of having stopped the construction before 31st day of July 2017 on account of any communication from the Grama Panchayat or Government directing to stop the unauthorised construction;
- (k) Copy of approved plans and/ or permit issued if any, by the Secretary as per the provisions contained in the Act or the Building Rules;
- (l) Orders if any, granting exemption from the provisions of the Kerala Building Rules 1984, obtained earlier;
- (m) Details of action, if any taken by the Grama Panchayat concerned against this unauthorized construction;
- (n) Copy of orders granting exemption from the provisions of the Town Planning Schemes, obtained earlier;
- (o) Copy of previous orders if any, regularising constructions within the plot.
- (p) Copy of the resolution made by all owners or their association (for residential apartments);
- (q) Checklist and acknowledgment (as in Appendix X) in triplicate;
- (r) Copy of Aadhar card of the applicant;
- (s) Any other details pertaining to or of relevance to the plot and buildings therein if any.

(3) If the application received is not in order and/or

incomplete for further scrutiny, the Secretary shall, within fifteen working days of the receipt of the application, inform the applicant, that the same cannot be accepted. Clause 6

6. Procedure for disposal of application.- (1) In the case of applications other than those cited in sub-rule(3) of rule 3, the Secretary shall, verify the application, inspect or cause to

inspect the location, site and the buildings and after detailed verification and scrutiny, prepare a detailed report, in Form 1B appended to these rules, in duplicate, incorporating compounding fee (Appendix I), in the case if the unauthorised construction is regularised, duly sign and make a certification, as provided therein. The Secretary shall scrutinize the application on first-in first-out basis.

(2) If the application received is in order, the Secretary shall forward the following documents to the Town Planner within sixty days from the date of receipt of the application.

(i) One copy of Forms 1-A and 1-B duly filled up in all respects with office seal affixed in all pages;

(ii) Two sets of drawings verified, duly signed and certified

by the owner, licensee, structural engineer as the case may be. The verified drawings shall be signed by the Secretary or any designated person authorized by the Secretary in this behalf.

(3) The other documents received along with the application shall be kept in the office after due verification

(4) On scrutiny of application for regularization, if it is found that the unauthorised construction(s) does not conform to the following provisions, the Secretary shall reject the application citing the reason for rejection.

- (i) Section 220b of the Kerala Panchayat Raj Act, 1994 (20 of 1994);
- (ii) Town Planning Scheme, if any for that area sanctioned under the Town Planning Act;
- (iii) The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Act 24 of 1958) and the rules made there under;
- (iv) The Kerala Conservation of Paddy and Wet land Act 2008,
- (v) The Coastal Zone Regulations notified by the Ministry of Environment and Forests, Government of India;
- (vi) The Real Estate (Regulation and Development) Act, 2016,
- (vii) The Aircraft Act, 1934 (Act 22 of 1934) (viii) Any other law, including rule, byelaw, notification etc. made under such laws and any similar Acts
- (ix) Safety and security provisions in the Building Rules laid out in Appendix II to these rules;
- (x) if the unauthorized construction is carried out in any land which is acquired for road widening or public land
- (xi) If the land has no title deed.

(5) The Secretary shall reject the application within sixty

days to the applicant, if they are not in order and or not duly filled up or signed or certified, or violating the provisions of the Acts and rules mentioned in sub- rule 4 of these rules, citing reasons for rejection

(6) The Town Planner shall consider the duly filled up Forms and the drawings forwarded by the Secretary and prepare technical recommendations in FORM 1-C. The Town Planner may, if necessary, inspect or cause to inspect the location and/or site and/or the building

(7) The Town Planner may reject and return the Forms and the drawings to the Secretary, if they are not in order and or not duly filled up or signed or certified, citing reasons for non-acceptance.

(8) The Town Planner shall place the following within sixty days from the date of receipt, if they are in order, before a Committee constituted by Government.

(i) Forms 1-A, 1-B and 1-C duly filled up and signed in all respects;

(ii) Drawings forwarded by the Secretary and signed and certified by the Town Planner to the effect that 'the technical recommendation made has reference to this drawings:

(9) Government may issue orders constituting a Committee with the following members for considering applications for regularization of unauthorized constructions

(I) The District Town Planner

(ii) The Deputy Director of Panchayats

(iii) The Secretary of the Local Self Government Institutions concerned.

(10) The Committee shall be convened by the District Town

Planner. The Committee shall consider the duly filled up forms and the drawings placed by the District Town Planner and considering the merit of the application, may issue orders according sanction to the Secretary for regularisation with or without conditions and approve the plans or reject the application for regularisation and forward the same to the Secretary concerned along with a copy of the drawing approved or rejected by the Committee. A copy of the orders of the Committee shall be forwarded to the applicant also. Any order according sanction for regularisation shall specify,-

(i) the name of applicant, survey number/resurvey number of the plot/land with the name of villages, occupancy of the buildings, total floor area, number of floors in each buildings;

- (ii) conditions, if any, under which sanction for regularisation is granted;
- (iii) period within which the conditions, if any, stipulated for regularisation is to be complied with;
- (iv) the amount of compounding fee to be remitted in the Government Treasury;
- (v) the Head of Account and the period within which the compounding fee is to be remitted in the Government Treasury;

(11) Once the orders according sanction for regularisation

with or without conditions or rejecting the same are received by the Secretary, the Secretary shall intimate the applicant accordingly on each application, with copy of the said order. If sanction is accorded to regularise the unauthorised construction, Secretary shall intimate the applicant to comply the conditions, if any in the orders.

(12) The Secretary shall also in his intimation inform the

applicant to submit all concurrences/approvals required as per Building Rules from various Central or State Government Departments and agencies such as Fire and Rescue Service

Department, State Level Environment Impact Assessment Authority, Ministry of Environment and Forests of Government of India, Coastal Zone Management Authority, Airports Authority, Railway Authorities, Defence Authorities, the Kerala State Pollution Control Board, District Collector, Chief Electrical Inspector, Department of Town and Country Planning etc, and check conformity to any law or rules, bye-laws, notifications etc. made under such law(s) other than the Act wherever applicable.

(13) The applicant, after complying the directions in the intimation of the Secretary, shall in writing inform the Secretary about the compliance and submit an indemnity

bond as in Appendix III.

(14) The Secretary on receipt of such letter from the

applicant shall verify the compliance in all respects and if complied, Secretary shall then direct the applicant to remit the compounding fee as stipulated in the orders of the Committee according sanction to the Secretary for regularisation. Once the applicant intimates the Secretary with proof of the remittance of compounding fee, Secretary shall issue final orders for regularisation in Appendix VII and copy of the said order shall be sent to the applicant.

(15) The Secretary shall also publish the list of such orders

issued in the office notice board every month and in the official website of the Grama Panchayat concerned, which shall include the number and date of the orders issued, together with the name of the applicant, survey/resurvey number(s) and name of village and taluk pertaining to the plot, violations and whether the construction was regularized or not regularised; or regularized with conditions.

(16) The details of the Licensees/Structural Engineers,

Architects etc., including photographs, who have been involved in the design, supervision and construction of the building under regularization will also be made available in the website along with the details of the building so regularized/rejected.

(17) The Secretary shall maintain a register of all treasury remittances towards compounding fee and shall forward quarterly reports thereon to the Government through the Director of Panchayats

(18) The Secretary shall also maintain a permanent register

of all unauthorised buildings/constructions regularised under these rules, containing details such as name and address of the applicant, survey/resurvey numbers and name of village, occupancy, number of storeys, floor area of each floor, Name of Licensee and Structural Engineer, violation of rules regularised, number and date of the sanction order by the Committee constituted by Government, amount of compounding fee remitted with challan receipt particulars, conditions, if any, stipulated in the order and action taken there on.

Clause 10

10. Review by Government.- (1) Any person aggrieved

by an order issued under the provisions of these rules, may file a petition for review, to the Government. Provided that there shall be only one review against any

order issued.

(2) A petition for review under sub-rule(1) shall be presented within thirty days from the date of service of the order, allowing or rejecting the application by the Secretary.

(3) The review petition shall be in white paper typed or written in ink, affixed with court fee stamp worth rupees five, and the same shall be submitted along with the true copy of the order to be reviewed.

(4) When a petition for review has been presented under these rules, the Government may, if found necessary, stay the operation of the order, pending consideration of the petition.

(5) The Government shall, after reviewing the petition, pass appropriate orders thereon after hearing the petitioner and forward the same to the Secretary concerned, with copy thereof to the Town Planner.

(6) In case the review petition is rejected, the Secretary shall initiate action as provided under rule 9.

27. Much emphasis has been laid by the learned counsel

representing Smt.Rajamma on condition No.11 of sub-clause 4 of Clause 6 of 2018 Rules regarding the title of the land. Sub- rule 4 deals with the rejection of the application if the conditions enumerated therein are not complied with. It is not in dispute that Smt.Rajamma has not denied the ownership of the property of Shri.Iype, challenge is only with regard to the construction. The aforementioned observations of mine are derived from the findings rendered in paragraph 7 of the impugned order. The same reads as under :

7) It is submitted by the advocate that the petitioner is residing along with his son in a house which is situated on the eastern side of the building of the opposite party, and they purchased the property as per SARFAESI Act from UCO Bank in auction and they are in possession of the sales certificate and they purchased this property by remitting an amount of Rs.16 lakhs in the bank and they are having the documents issued from the Municipality to substantiate the same. The construction which is the subject matter in the complaint is commenced in the year 2012 and the construction is effected abutting to the complainant's property and the walls are not stable and because of that there is threat to the life of the complainant and her family. There were so many complaints submitted before the Secretary, Kottayam Municipality and the Municipality has issued several stop memos against the opposite party and they have no intention to close down the venture undertaken by the opposite party but the illegal construction encroaching into her land should be stopped.

28. For establishing the encroachment of the land on the

property of the adjacent neighbour, the remedy is to seek for demarcation of the land of the constructed portion through a building survey and then it has to be adjudicated in civil proceedings, but not in a writ court. Writ court is not enjoined

with the power of holding an enquiry as enshrined under Section 9 of the Code of Civil Procedure for which already civil suits, as noticed above, are pending adjudication. No material with regard to the allegation of the encroachment of the land of Smt.Rajamma or to be in residential zone has been placed on record. It appears to be a case of jealous of healthy competition and some kind of rancour, for which the court cannot be made an arena for vindication. It would be also appropriate to refer certain paragraphs of the impugned order which reads thus:

12) On perusal of the certificate issued from the Kottayam Municipality submitted through the advocate of Smt.Rajamma Joseph it is seen that the certificate is issued by the Revenue Officer instead of Municipal Secretary. The Additional Chief Secretary directed the Municipal Director as well as the Municipal Secretary to take note that when certificate is issued pertaining to a building, they are bound to consider whether the building is in his name and whether he is having the title deed, possession, tax receipt, and etc. It is informed by the Kottayam Municipal Secretary that this certificate is not signed by the Secretary and the Director of Panchayath expressed his anguish on that.

13) When the Additional Chief Secretary enquired as to whether any complaint is filed while carrying the construction abutting to the petitioner's property, it is informed by the

Assistant Executive Engineer of Kottayam Municipality that several complaints dated 25.01.2016, 21.07.2016, 08.07.2013 and 30.04.2017 were submitted and stop memo is issued against the constructions for which no permit is required. The Additional Chief Secretary informed that whether there is an encroachment to the puramboke land is to be looked into by the Revenue Department and not by the LSGD. When the Additional Chief Secretary enquired as to whether it is reported as purampokku land in the sale deed to the counsel of Oommen type, he informed that no such endorsements in the sale deed.

14) He has produced the tax receipt showing payment of property tax for 2.13 hectare property, ownership certificate and possession certificate along with title deed.

15) The Kottayam Town Planner Informed that against the building of Shri. Qommen lype, several cases are filed except that a portion of the building is abutting to the adjacent land, no other violation is sustainable. The Kottayam Municipal Secretary Informed that no purmapokku land is involved where the building is constructed and it was reaffirmed after verifying the asset register maintained in the Municipality. Shri. Oommen type has only increased the height of the wall of the existing old building and no new construction has been erected. Therefore, the new building abut to the adjacent land will not be sustainable.

16) The regularisation order challenged in WP (C) submitted representation before the Chief Minister since the

Municipality has not issued occupancy certificate in spite of the regularisation order dated 25.03.2019 issued by the Kottayam Town Planner bearing No. C/1612/2018 KDS. On the basis of that, the conditions imposed beyond the Regularisation Rules was decided to be reconsidered by the Additional Chief Secretary in the meeting held on 13.11.2019. In the meeting of the Regularisation Committee

held on 25.03.2019 it was decided to reconsider the

conditions imposed in the regularisation order and directed to regularise the building within 5 days after ascertaining the matters coming within the Kerala Municipality Building (Regulation of Unauthorised Constructions) Rules 2018 and whether there is any purampokku land encroachment and if anybody has such objections that matter is to be considered by the Revenue Department. On the basis of the said decision, the decision of the District Level Committee dated 15.11.2019 is reconsidered and

decided to regularise the building with new conditions as per order bearing No. C16/12/2018/KDS.

17) The order No. C16/12/2018 dated 15.11.2019 and the 8 conditions therein which is a subject matter in WP(C) 18) Conditions

1. The existing building should be on his own property.
2. The arrangements referred as 4 in the Structural Stability Certificate should be incorporated.
3. No additional construction should be effected adjacent to the existing building.
4. In compliance with Rule 5 (8A) of KMBR 1999 required permission should be obtained from the Fire Rescue Department.
5. In compliance with Rule 55(9) of KMBR 1999 there should be NBC 1973 compliance for all fire and rescue requirements.
6. There should be underwater preservation scheme in compliance with Rule 19 of KMBR 1999, Rainwater Harvesting as per Rule 109 (b), solar energy as per Rule 109 (c) and facilities for persons with disabilities as per Rule 40 (a) should be implemented.
7. The Secretary should ensure that there is proper mechanism for disposal of waste in compliance with Rule 26(a).
8. The provisions in Kerala Municipality Building (Regulation of Unauthorised Construction) 2018 should be implemented. The findings entered into during Hearing.

19) The first condition referred above is not sustainable as per KMBR 2018 and hence that condition need not be incorporated in the regularisation order. The 5 th condition is not relevant in the light of fourth

condition and hence decided to delete the same. The Secretary should make sure that the rainwater from the roof of the building should not fall on the property of Shri Pradeep claimed to be owned by Smt. Rajamma Joseph and that condition also should be incorporated. On the basis of the aforesaid findings, it is

decided to regularise the building of Shri Oommen Iype with the following conditions: 20) Conditions

1. The Structural Stability Certificate should be produced before Municipal Secretary by Shri. Oommen Iype.
 2. No additional construction should be effected adjacent to the existing building.
 3. In compliance with Rule 5 (8A) of KMBR 1999 required permission should be obtained from the Fire Rescue Department.
 4. There should be underwater preservation scheme in- compliance with Rule 19 of KMBR 1999, Rainwater Harvesting as per Rule 109 (b), solar energy as per Rule 109
- (c) and facilities for persons with disabilities as per Rule 40
- (a) should be implemented.
5. The Secretary should ensure that there is proper mechanism for disposal of waste in compliance with Rule 26(a).
 6. The provisions in Kerala Municipality Building (Regulation of Unauthorised Construction) 2018 should be implemented.
 7. The Secretary should make sure that the rainwater from the roof of the building should not fall on the property of Shri. Pradeep claimed to be owned by Smt. Rajamma Joseph and that condition also should be incorporated.

21) The applicant shall be granted occupancy by the Municipal Council Secretary after ensuring that he is complying with the provisions of the Kerala Municipality

Building (Regularisation of Unauthorised Constructions) Rules, 2018.

29. On perusal of the same, the concerned authority has

discussed the applicability of the Rules and contentions of the parties in extenso. In the application proof of ownership was tick marked as it was enclosed thus there was no violation of the rules. The said exercise was done in pursuance of the direction of this Court. But for sake of repetition, I must again reiterate that the question of maintainability of the writ petition without the ownership had never been an issue of debate or discussion in either of the orders/judgments except whether it would be for a public or a private cause. On one hand, Government is inviting the NRIs to invest in different States of the country for improving the economic condition, but here the NRI - Shri.lype who has spent a substantial amount in running a convention centre is hindered by multiple litigations. It does not leave a good impression. High Court should not be made a platform for wrecking vengeance or rancour amongst the neighbours. It is for the authority competent to take suitable action in case any fraction of land is being found to be in unauthorised possession. For the reasons stated hereinabove, third writ petition W.P(C).4986 of 2020 is held to be not maintainable, accordingly dismissed. Impugned order Ext.P28 dated 07.02.2020 is upheld. The entire exercise is contumacious thus a cost of Rs.1,00,000/- (Rupees one lakh only) upon Rajamma is imposed, to be paid to the petitioner in W.P(C).950 of 2023.

30. As regards the contention of the petitioner in the

second writ petition with regard to the participation in the survey by appointing a private surveyor is also not sustainable, as petitioner has not been able to establish prima facie by placing on record any revenue record or field book/map that their survey numbers are being affected with the construction nor any report of the surveyor is on record to prima facie form different opinion. The parties cannot use the machinery of this court under Article 226 of the Constitution of India for holding and enquiry to call upon the other side to supply all the revenue record and then grant permission in participation of the survey. It is established practice that a person who seeks a legal right must prima facie establish in support of the claim by relying upon certain documents. In the absence of the same, judicial

review cannot be exercised. W.P(C).16331 of 2021 is also bereft of the merits, dismissed with costs of Rs.50,000/- (Rupees fifty thousand only) to be paid to the petitioner in W.P(C).950 of 2023

32. Coming to the first writ petition, the claim is with

regard to the grievance of the employees on the pay-roll of the petitioner for running the convention centre, representation Ext.P1 has been submitted in this regard. Direction is issued to the concerned respondent to take a call on the representation and pass order in accordance with law as expeditiously as possible. On satisfactory compliance of the conditions, the

convention centre is permitted to carry activities as per order

dated 17.02.2020. W.P(C).950 of 2023 is thus allowed. Sd/- AMIT RAWAL JUDGE
nak APPENDIX OF WP(C) 4986/2020 PETITIONER EXHIBITS EXHIBIT P1 THE
TRUE COPY OF THE SALE DEED NO.3182/2010 OF KOTTAYAM SRO EXHIBIT
P2 THE TRUE COPY OF THE LETTER ISSUED BY THE PUBLIC
INFORMATION OFFICER, KOTTAYAM MUNICIPALITY DATED 06.08.2018 TO
THE EFFECT THAT THE 9TH RESPONDENT'S PROPERTY COMES WITHIN
THE RESIDENTIAL ZONE

EXHIBIT P3 THE TRUE COPY OF THE REPORT SUBMITTED BY THE TOWN
PLANNER TO THE CHIEF TOWN PLANNER (VIGILANT)
THIRUVANANTHAPURAM DATED 22.06.2018 EXHIBIT P4 THE TRUE COPY
OF THE ORDER OF MUNICIPAL SECRETARY DATED 28.01.2016 EXHIBIT P5
THE TRUE COPY OF THE STOP MEMO DATED 21.07.2017 ISSUED BY THE
SECRETARY TO THE 9TH RESPONDENT EXHIBIT P6 THE TRUE COPY OF
THE NOTICE DATED 08.07.2018 ISSUED BY THE MUNICIPALITY DIRECTED
TO STOP ALL FURTHER CONSTRUCTIONS EXHIBIT P6(A) THE TRUE COPY
OF THE STOP MEMO DATED 30.04.2019 ISSUED BY THE SECRETARY TO
9TH RESPONDENT DIRECTING HIM TO STOP ILLEGAL CONSTRUCTION
EXHIBIT P6(B) THE TRUE COPY OF THE TECHNICAL RECOMMENDATION
SUBMITTED BY TOWN PLANNER KOTTAYAM DATED 19.03.2019 EXHIBIT P7
THE TRUE COPY OF THE ORDER DATED 14.03.2016 IN I.A.193/2016 IN

W.P.(C) EXHIBIT P8 TRUE COPY OF THE ORDER DATED 09.08.2016 IN I.A. 193/2016 IN W.P.(C) 1187/2013 EXHIBIT P9 THE TRUE COPY OF THE APPLICATION

SUBMITTED ON 09.03.2018 FOR REGULARIZATION OF UNATHORISED CONSTRUCTION BY THE 9TH RESPONDENT IN FORM IA WITH APPENDIX 10

EXHIBIT P10 THE TRUE COPY OF THE JUDGMENT REPORTED IN 2002 KHC 744 (JAYACHANDRAN V. STATE OF KERALA) EXHIBIT P11 THE TRUE COPY OF THE INTERIM ORDER DATED 22.11.2017 IN W.P.C 37534/2017 EXHIBIT P12 THE TRUE COPY OF THE PROCEEDINGS OF THE SECRETARY DATED 08.05.2018 EXHIBIT P13 THE TRUE COPY OF THE PROCEEDINGS BEARING NO.C/1206/2018/K.DIS DATED 23.08.2018

EXHIBIT P14 THE TRUE COPY OF THE GOVERNMENT ORDER

BEARING NO.RA3/14/19 ISSUED FROM THE OFFICE OF THE CHIEF SECRETARY EXHIBIT P15 THE TRUE COPY OF THE ORDER BEARING NO.G25542/16 ISSUED FROM THE OFFICE OF DIRECTOR OF LOCAL SELF GOVERNMENT DEPARTMENT DATED 25.02.2019

EXHIBIT P16 THE TRUE COPY OF THE ORDER BEARING NO.C/1612/2018/K.DIS DATED 25.03.2019 ISSUED BY THE 6TH RESPONDENT EXHIBIT P17 TRUE COPY OF KERALA MUNICIPALITY BUILDING (REGULARISATION OF UNAUTHORISED CONSTRUCTION) RULES, 2018 EXHIBIT P17(A) TRUE COPY OF THE JUDGMENT IN W.P.(C) EXHIBIT P18 THE TRUE COPY OF THE ORDER IN I.A. NO.1/2019 IN W.P.(C) NO.12159/2019 DATED 25.07.2019 EXHIBIT P19 THE TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 13.11.2019 IN THE OFFICE ADDITIONAL CHIEF SECRETARY, LSGD EXHIBIT P20 THE TRUE COPY OF THE ORDER BEARING NO.C/1612/2018/K.DIS (REVISED) DATED 15.11.2019 EXHIBIT P21 THE TRUE COPY OF THE MEMORANDUM OF WRIT PETITIONER NO.23611/2019 (WITHOUT EXHIBITS) EXHIBIT P22 TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT IN

WP(C) 23611/2019 DATED 03.09.2019 EXHIBIT P23 TRUE COPY OF THE ORDER PASSED BY KOTTAYAM MUNICIPALITY DATED 19.11.2019 REGULARISING THE 9TH RESPONDENT'S BUILDING EXHIBIT P24 TRUE COPY OF THE JUDGMENT IN W.P.(C) EXHIBIT P25 TRUE COPY OF THE REVIEW PETITION FILED BY THE PETITIONER BEFORE THE GOVERNMENT (WITHOUT ANNEXURES) EXHIBIT P26 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 06.02.2020 BEFORE SRI. T.K. JOSE EXHIBIT P27 TRUE COPY OF THE R.P.NO.164/2020 IN W.P.

(C) 31302/2019 WITHOUT JUDGMENT

EXHIBIT P28 TRUE COPY OF THE ORDER PASSED BY SRI.T.K.JOSE, ADDITIONAL CHIEF SECRETARY IN THE REVIEW PETITION FILED BY THE PETITIONER DATED 17.02.2020 EXHIBIT P29 TRUE COPY OF THE INTERIM ORDER OF THIS HON'BLE COURT IN W.P.(C) 21490/2019 DATED 06.08.2019 EXHIBIT P30 TRUE COPY OF THE REPORT SUBMITTED BY TALUK SURVEYOR IN PURSUANT TO THE DIRECTION OF TAHSILDAR'S ORDER NO.F1(2) 9TH RESPONDENT'S PROPERTY EXHIBIT P31 THE TRUE COPY OF THE SALE CERTIFICATE REGISTERED BEFORE THE KOTTAYAM SUB REGISTRAR AS DOCUMENT NO.295/2020 IN FAVOUR OF MY SON J.G.PALACKALODY DATED

RESPONDENT EXHIBITS EXHIBIT R3 A A COPY OF THE GOVERNMENT ORDER-G.O.(P) NO-11/2018/LSGD DATED 15.2.2018 EXHIBIT R3 B TRUE COPY OF THE REPRESENTATION FILED BY THE 9TH RESPONDENT BEFORE THE GOVERNMENT ON 27.6.2019 EXHIBIT R3 C TRUE COPY OF THE LETTER DATED 14.11.2019 EXHIBIT R3 D TRUE COPY OF THE PROCEEDINGS VIDE C/1612/2018/K-DIS(REVISED)DATED 15.11.2019 RESPONDENT EXHIBITS EXHIBIT R9 A COPY OF COMMUNICATION DATED 8.9.2016 FROM

THE DEPUTY TOWN PLANNER AND STATE PUBLIC INFORMATION OFFICER TO THE 9TH RESPONDENT STATING THAT MIXED USE IS PERMISSIBLE IN THE PROPERTY COVERED BY EXHIBIT P1 EXHIBIT R9 B COPY OF THE JUDGMENT IN WRIT APPEAL NOEXHIBIT R9 C COPY OF WP(C) NO-

1840/2020 EXCLUDING

EXHIBITS P1 TO P4 (P1 TP P4PRODUCED IN THIS WRIT PETITION BY PETITIONER) EXHIBIT R9 D COPY OF THE JUDGMENT IN WP(C) 1840/2020 EXHIBIT R9 E COPY OF THE ORDER IN R.P. NO.117/2020 EXHIBIT R9 F COPY OF THE CERTIFICATE DATED 10.2.2020 ISSUED BY THE VILLAGE OFFICER, MUTTAMBALAM. EXHIBIT R9 G COPY OF PLAINT IN O.S.NO.329/2018 FILED BY PETITIONER'S SON BEFORE MUNSIFF'S COURT, KOTTAYAM. EXHIBIT R9 H COPY OF PLAINT IN O.S. NO-402/2019 FILED BY PETITIONER'S HUSBAND BEFORE MUNSIFF'S COURT, KOTTAYAM. EXHIBIT R9 I COPY OF DELAY CONDONATION PETITION FILED ALONG WITH (EXHIBIT P27)REVIEW PETITION NO-164/2020. EXHIBIT R9 J COPY OF REVIEW PETITION NO-117 OF 2020 APPENDIX OF WP(C) 16331/2021 PETITIONER EXHIBITS Exhibit P1 THE COPY OF NOTICE DATED 04.05.2019 ISSUED BY THE 4TH RESPONDENT. Exhibit P2 THE COPY OF THE REPORT REGARDING SURVEY CONDUCTED ON 26.11.2020 PREPARED BY THE 4TH RESPONDENT. Exhibit P3 THE COPY OF JUDGMENT IN WRIT PETITION NO.21490/2019 OF THIS HON'BL COURT. Exhibit P4 THE COPY OF NOTICE DATED 23.07.2021 RECEIVED BY THE 1ST PETITIONER. Exhibit P5 THE COPY OF THE OBJECTION DATED 02.08.2021 SUBMITTED BY THE 2ND PETITIONER TO THE 1ST RESPONDENT. RESPONDENT EXHIBITS EXHIBIT R 7 (B) COPY OF THE JUDGMENT IN W. P. (C) NO. EXHIBIT R 7(C) COPY OF THE JUDGMENT IN WA NO 555/22 APPENDIX OF WP(C) 950/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE REPRESENTATION DATED 29.12.2022 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT

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