

Tgn Kumar, vs the Commissioner of Police,

Tgn Kumar, vs the Commissioner of Police,

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Court : Kerala

Decided On : Jul-25-2023

Judge : Honourable the Chief Justice Mr. a.J.Desai,Honourable Mr.Justice V.G.Arun

Appeal No. : WP(C)/29221/2022

Appellant : Tgn Kumar,

Respondent : The Commissioner of Police,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI & THE HONOURABLE MR.JUSTICE V.G.ARUN TUESDAY, THE 25TH DAY OF JULY 2023 / 3RD SRAVANA, 1945 WA NO. 662 OF 2023 AGAINST THE ORDER IN WP(C) 29221/2022 OF HIGH COURT OF KERALA APPELLANTS/RESPONDENTS 1 TO 5, 11, 13 AND 18 IN WPC: 1 THE COMMISSIONER OF POLICE PARK VIEW, MARINE DRIVE, ERNAKULAM, KOCHI, PIN - 682 011 2 THE SUPERINTENDENT OF POLICE TRAFFIC, SOUTH ZONE, POLICE HEAD QUARTERS, THIRUVANANTHAPURAM, PIN - 695 004

3 THE ASSISTANT COMMISSIONER TRAFFIC EAST, EDAPPALLY, KOCHI, PIN - 682 024 4 POLICE INSPECTOR CITY TRAFFIC EAST ENFORCEMENT UNIT, EDAPPALLY, KOCHI, PIN - 682 024 5 THE STATION HOUSE OFFICER PALARIVATTOM POLICE STATION, PALARIVATTOM, PIN - 682 025 6 THE REGIONAL TRANSPORT OFFICER 2ND FLOOR, CIVIL STATION, KAKKANADU, KOCHI, PIN - 682 030 7 THE DISTRICT COLLECTOR CIVIL STATION, KAKKANADU, KOCHI, PIN - 682 030

8 THE CHIEF SECRETARY GOVERNMENT OF KERALA, (DIRECTOR, KOCHI METRO RAIL LTD) SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001 BY ADVOCATE GENERAL SRI.K.GOPALAKRISHNA KURUP SHRI.T.B.HOOD, SPL.G.P. TO A.G. RESPONDENTS/PETITIONER & RESPONDENTS 6-10, 12 AND 14 TO 17 IN WPC: 1 TGN KUMAR 2 YUSUF ALI CHAIRMAN AND MANAGING DIRECTOR, LULU GROUP, EMKE MANSION I, NATTIKA, THRISSUR DISTRICT, PIN - 680 566. 3 THE NATIONAL HIGHWAY AUTHORITY OF INDIA REPRESENTED BY THE GENERAL MANAGER/REGIONAL OFFICER, AMBILY ARCADE, PETTAH P O THIRUVANANTHAPURAM, PIN - 695 024 4 THE PROJECT DIRECTOR NATIONAL HIGHWAY AUTHORITY OF INDIA (NHAI), VII/511B, NEITHELI, MAVELIPURAM ROAD, MAVELIPURAM, KAKKANAD, ERNAKULAM, KERALA, PIN - 682 030 5 THE KALAMASSERY MUNICIPALITY, REPRESENTED BY ITS SECRETARY, CHANGAMPUZHA NAGAR, SOUTH KALAMASSERY, COCHIN, PIN - 682 033 6 THE CORPORATION OF KOCHI, REPRESENTED BY ITS SECRETARY, PARK AVE ROAD, ERNAKUALM, PIN-682 011 7 KOCHI METRO RAIL LTD, REPRESENTED BY ITS MANAGING DIRECTOR, JLN METRO STATION, 4TH FLOOR, KALOOR, ERNAKULAM, PIN - 682 017 8 E. SREEDHARAN FORMER PRINCIPAL ADVISER, KOCHI METRO RAIL LTD., PEUMBAYIL HOUSE, PONNANI, MALAPPURAM DISTRICT, PIN - 679 577 9 THE BOARD OF DIRECTORS, COCHIN INTERNATIONAL AIRPORT LTD, REPRESENTED BY ITS CHAIRMAN, THE HON'BLE

CHIEF MINISTER OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001 10 COCHIN INTERNATIONAL AIRPORT LTD, REPRESENTED BY THE MANAGING DIRECTOR, KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM, PIN - 683 111 11 THE SECRETARY MINISTRY OF HOUSING AND URBAN AFFAIRS, GOVERNMENT OF INDIA, (CHAIRMAN, KOCHI METRO RAIL LTD.), ROOM NO.122 C, NIRMAN BHAVAN, NEW DELHI - 110 011 BY ADVS. P.S.BIJU SENIOR ADV.SRI.S.SREEKUMAR (B/O) STANDING COUNSEL SMT.I.SHEELA DEVI (B/O) STANDING COUNSEL SMT.V.P.REJITHA (B/O) SENIOR ADV.SRI.JAJU BABU (B/O) SRI.SREEJITH C.MENON OTHER PRESENT: ADV.M.K.ABOOBACKER FOR R5; ADV.BENNY P. THOMAS FOR R9,10; ADV.B.G. BIDAN CHANDRAN FOR R3; ADV.LEJO JOSEPH FOR R3; ADV. E.C. KURIAKOSE FOR R4; CGC SUVIN R. MENON; DSGI S.MANU THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.07.2023, ALONG WITH WP(C).29221/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI & THE HONOURABLE MR.JUSTICE V.G.ARUN TUESDAY, THE 25TH DAY OF JULY 2023 / 3RD SRAVANA, 1945 WP(C) NO. 29221 OF 2022 PETITIONER: TGN KUMAR, BY ADV P.S.BIJU RESPONDENTS: 1 THE COMMISSIONER OF POLICE, PARK VIEW, MARINE DRIVE, ERNAKULAM, KOCHI - 682 011. 2 THE SUPERINTENDENT OF POLICE, TRAFFIC, SOUTH ZONE, POLICE HEAD QUARTERS, TIRUVANANTHAPURAM - 695 004.

3 THE ASSISTANT COMMISSIONER, TRAFFIC EAST, EDAPPALLY P.O., KOCHI - 682 024. 4 POLICE INSPECTOR, CITY TRAFFIC EAST ENFORCEMENT UNIT, EDAPALLY, KOCHI CITY - 682 024. 5 THE STATION HOUSE OFFICER, PALARIVATTOM POLICE STATION,

PALARIVATTOM - 682 025.

6 SRI. YUSUF ALI, CHAIRMAN AND MANAGING DIRECTOR, LULU GROUP, EMKE MANSION 1, NATTIKA, THRISSUR DISTRICT - 680 566. 7 ADDL.R7.THE NATIONAL HIGHWAY AUTHORITY OF INDIA REPRESENTED BY THE GENERAL MANAGER/REGIONAL OFFICER, AMBILY ARCADE, PETTAH.P.O., THIRUVANANTHAPURAM-695 024 8 ADDL.R8.THE PROJECT DIRECTOR NATIONAL HIGHWAY AUTHORITY OF INDIA (NHAI) VII/511B, NEITHELI-MAVELIPURAM ROAD, MAVELIPURAM, KAKKANAD, ERNAKULAM, KERALA - 682 030 9 ADDL.R9.THE KALAMASSERY MUNICIPALITY REPRESENTED BY ITS SECRETARY,CHANGAMPUZHA NAGAR, SOUTH KALAMASSERY, COCHIN - 682 033 10 ADDL.R10. THE CORPORATION OF KOCHI REPRESENTED BY ITS SECRETARY, PARK AVE ROAD, ERNAKULAM - 682 011 11 ADDL.R11.THE REGIONAL TRANSPORT OFFICER 2ND FLOOR, CIVIL STATION, KAKKANADU, KOCHI - 682 030 12 ADDL.R12.KOCHI METRO RAIL LTD REPRESENTED BY ITS MANAGING DIRECTOR, JLN METRO STATION, 4TH FLOOR, KALOOR, ERNAKULAM - 682 017 13 ADDL.R13.THE DISTRICT COLLECTOR CIVIL STATION, KAKKANADU, KOCHI - 682 030 (ADDITIONAL R7 TO R13 ARE IMPEADED AS PER

ORDER DATED 07.11.2022 IN I.A.4/2022 IN

WP(C)29221/2022) 14 ADDL. R15 .THE BOARD OF DIRECTORS COCHIN INTERNATIONAL AIRPORT LTD., REP. BY ITS CHAIRMAN, THE HON'BLE CHIEF MINISTER OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001 15 ADDL.R16.COCHIN INTERNATIONAL AIRPORT LTD; REPRESENTED BY THE MANAGING DIRECTOR, KOCHI AIRPORT P O, NEDUMBASSERY, ERNAKULAM - 683 111 (ADDITIONAL R15 AND R16 ARE IMPEADED AS PER

ORDER DATED 22.12.2022 IN I.A.6/2022 IN

WP(C)29221/2022). 16 ADDL.R17.THE SECRETARY, MINISTRY OF HOUSING AND URBAN AFFAIRS, GOVERNMENT OF INDIA (CHAIRMAN, KOCHI METRO RAIL LTD.) ROOM NO.122 C, NIRMAN BHAVAN, NEW DELHI - 110 011 17 ADDL. R18. THE CHIEF SECRETARY, GOVERNMENT OF KERALA, (DIRECTOR, KOCHI METRO RAIL LTD.) SECRETARIAT, THIRUVANANTHAPURAM - 695 001 (ADDITIONAL R17 AND R18 ARE IMPEADED AS PER

ORDER DATED 11.01.2023 IN IA 1/2023 IN WP(C)

BY ADVS. K.GOPALAKRISHNAKURUP, AG T.B.HOOD, SPL GP M.K.ABOOBACKER Martin Jose P V.P.REJITHA (PUZHAKKALIDOM) M.U.VIJAYALAKSHMI BENNY P. THOMAS (B/O) K.JAJU BABU (SR.) P.PRIJITH(K/233/2005) THOMAS P.KURUVILLA(K/420-B/2005) R.GITESH(K/630/2002) AJAY BEN JOSE(K/729/2012) MANJUNATH MENON(K/000474/2015) SACHIN JACOB AMBAT(K/734/2016) ANNA LINDA V.J(K/1201/2020) HARIKRISHNAN S.(K/497/2019) S.SREEKUMAR (SR.)(S-571) E.C.KURIAKOSE B.G. BIDAN CHANDRAN LEJO JOSEPH SUVIN R. MENON, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.07.2023, ALONG WITH WA.662/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 25th day of July 2023 A.J. Desai, C.J By way of the present writ appeal filed under section 5 of the Kerala High Court Act, 1958, the State of Kerala has challenged the interim order dated 03.03.2023 passed by the learned single Judge by which several directions have been issued.

2. Learned Advocate General appearing for the State

authorities would submit that the learned single Judge has travelled beyond the scope of the petition. Learned Advocate General would submit that by filing the

captioned writ petition, the original petitioner has sought a writ of mandamus directing the State authority to take effective steps to prevent illegal and unauthorized parking of vehicles on the service road on either side of National Highway bypass between Gold Souk and Edapally Lulu Mall junction and to take effective steps to remove the traffic congestion in between Gold Souk and Edapally Lulu Mall junction.

3. Learned Advocate General would submit that initially

petitioner has joined six respondents. However, the learned single Judge impleaded 12 other authorities and passed several directions, which are beyond the scope of the prayers made in the writ petition.

4. He would submit that during the pendency of the

present appeal, the Inspector General of Police and Commissioner of Police, Kochi city has filed a statement dated 01.07.2023. By taking us through the above statement, he would submit that all effective steps are being taken by the authorities. He would submit that the DGP has assured to take immediate steps to meet with the prayers. He, therefore, would submit that the petition itself can be disposed of by appropriate directions.

5. On the other hand, learned Advocate appearing for the

1st respondent/original petitioner tries to support the order

impugned in the appeal.

6. We have heard learned Advocates appearing for the respective parties.

7. It appears that the grievance of the original petitioner was with regard to the traffic issues. By passing the interim

order the learned single Judge has issued directions to the

various authorities and added new respondents. Apart from this aspect, the statement filed by the Inspector General makes it clear that the police authorities

are taking appropriate steps, which has been specifically stated in paragraph 7 onwards. Paragraph 7 to 13 are reproduced hereunder:

7. It is submitted that the writ petition has been filed alleging that heavy traffic block occurs from Vyttila junction up to Edapally junction. Vyttila junction on NH 66 is one of the busiest junctions in the State. NH 66 and NH 544 converge at Edapally junction. There are many eateries, hotels, hospitals, vehicle showrooms and commercial establishments, including shopping malls, on either side of the bypass road from Vyttila to Edapally junction. Vehicles arriving at these establishments and the heavy vehicles as well as trailer trucks, moving through the National Highway to distant destinations make the bypass road as the busiest stretch in the State.

8. As submitted earlier, NH 66 and NH 544 converge at

Edapally junction. Public Works Department road from Ernakulam to Aluva intersects this junction. Amrita Medical College, Renai Medicity, MAJ Hospital and Medical Centre Hospital are within 5 Km radius of Edapally junction. Religious institutions like St. George's Church and Edapally mosque, where thousands congregate every week, are within the close vicinity of Edapally junction. St. George Church, Edapally is a major pilgrim centre.

9. It is submitted that the first prayer in the writ petition

is to issue writ of mandamus directing the respondents 1 to 4 to prevent illegal and unauthorized parking of vehicle on the service road on either side of National Highway bypass between Gold Souk and Lulu Mall junction. As mentioned earlier, several business establishments dot the service roads on either sides of this National Highway 66 and 544. The vehicles bringing goods/materials and customers coming to these business establishments, park their vehicles on service roads. Whenever

such instances are noticed, the Police interfere and the offenders are booked for obstructive parking. To reduce the traffic congestion in this area, the Traffic Enforcement Unit Edapally has been taking strong legal actions against obstructive parking. The details of offence detected from April 2022 to May 2023 are given below:-

Month No. of cases detected from April 2022 to May 2023
April 953 May 987 June 715 July 825 August 1166 September 1290 October 2150 November 681
December 906 January 778 February 407 March 568 April 448 May 467 Total 12341
The above figures would indicate that the Police have taken measures against the violators.

10. It is submitted that the second prayer in the writ

petition is to command the respondents 1 to 4 to take effective steps to remove the traffic congestion in between Gold Souk and Edapally Lulu mall junction. To gather clear information regarding traffic flow pattern at Edapally junction, the Police

Department collected data during peak hours from 07.01.2023 to 12.01.2023. True copy of the data collected by the Police Department in the traffic flow pattern study conducted at Edapally bypass junction is produced herewith and marked as Annexure A1(a). Annexure A1(a) would demonstrate heavy flow of traffic at Edapally bypass junction during peak hours from 9 am to 10 am and 5 pm to 6 pm.

11. It is submitted that the Police have been taking all

possible measures within their command to reduce the traffic congestion at Edapally bypass. However, the width of the road does not commensurate with volume of traffic in this stretch. Enduring solution is widening of the National Highway. In paragraph 2 of the statement already filed by the 3rd respondent - Assistant Commissioner in the writ petition, the width of the road at Edapally junction has been stated. The width of the National Highways is grossly inadequate to facilitate free

flow of heavy traffic at Edapally junction. Only by widening the National Highways, a lasting solution for traffic congestion at Edapally Junction could be achieved.

12. It is submitted that NH 66 from Edapally junction to

Kodungallur is being developed by the National Highway Authority of India from two lane in to six lane. The structures on either side of the NH 66 at Edapally junction have been demolished for the NH widening. It is learnt that there is a proposal by the National Highway Authority to construct elevated highway from Edapally to Aroor on NH 66.

13. It is submitted that Police have been taking all

possible steps to enable seamless flow of traffic and to reduce traffic congestion. The Police have been coordinating with other authorities to avoid traffic holdups in this area. National Highway authorities and Kochi Municipal Corporation were requested to install no parking boards on service roads on both sides of the NH. Sufficient police personnel are being deputed every day to regulate traffic at Vyttila and Edapally junctions and other locations in that stretch.

In view of the above facts, we allow this appeal and not only quash and set aside the impugned order but dispose of the writ petition itself by directing the respondent police authorities to take appropriate actions as stated in paragraph 7 to 13 of the statement filed by the 1st appellant and reproduced above. Sd/- A.J. Desai Chief Justice Sd/- V.G. Arun Judge vpv APPENDIX OF WP(C) 29221/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE REPRESENTATION DATED 30.07.2022 PREFERRED BY THE PETITIONER BEFORE THE 2ND AND 3RD RESPONDENT. Exhibit P2 TRUE COPY OF THE COMMUNICATION SENT FROM THE OFFICE OF THE 4TH RESPONDENT TO THE PETITIONER DATED 16.08.2022. Exhibit P3 TRUE COPY OF THE COMMUNICATION DATED 18.08.2022. Exhibit P4 TRUE COPY OF THE REPRESENTATION DATED 20.08.2022 PREFERRED BEFORE THE 1ST RESPONDENT AND 2ND

RESPONDENT. Exhibit P5 TRUE COPY OF THE COMMUNICATION DATED 20.10.2022 ISSUED TO THE 3RD RESPONDENT Exhibit P6 TRUE COPY OF THE PHOTOGRAPH SHOWING THE

VEHICLES BEING PARKED IN THE SERVICE ROAD IN VIOLATION OF THE DIRECTIONS ISSUED BY THIS HONOURABLE COURT.

RESPONDENT ANNEXURES Annexure R3(a) True copy of communication of 3rd respondent dated 21.10.2021 sent to the Chairperson Annexure R3(b) True copy of the decisions of Traffic Regulatory Committee dated 25.10.2021 Exhibit R12(a) True copy of the sanction order K- issued by the Government of India Exhibit R12(b) True copy of the Government order G.O (M/S) No.32/2015/Trans dated 25th May, 2015. Exhibit R12(c) True copy of the Metro Rail Policy 2017 introduced by the Government of India.

Exhibit R12(d) True copy of the Appraisal Guidelines

for Metro Rail Project Proposals passed by the Ministry of Housing and Urban Affairs, Government of India

Exhibit R12(e) True copy of the Government order G.O (Ms). No.52/2018/TRANS dated 27.07.2018 Exhibit R12(f) True copy of the Government Letter No.C2/75/2017/TRANS dated 27.07.2018 Exhibit R12(g) True copy of the Government letter No.C2/75/2017/Trans. of 4th February Exhibit R12(h) True copy of the Government Letter No F.No.K-14011/08/2015-MRTS-IV dated 26th February 2019 Exhibit R12(i) True copy of the Government order G.O

(Ms) No.36/2019/Trans dated 15.07.2019 Exhibit R12(j) True copy of the Government order G.O

(Ms) No.2/2021/Trans dated 16.01.2021

Exhibit R12(k) True copy of the letter no F.No.K- Exhibit R12(l) True copy of the Standard specification of Light Urban Rail Transit System, "METROLITE" issued by Government of India Exhibit R12(m) True copy of the Government letter vide No.K-14011/10/2021-MRTSIV dated Exhibit R12(n) True copy of the letter vide

No.KMRL/PRJ/DESIGN and PLG/180/2022/791 dated 09.08.2022 forwarded by the addl. 12th respondent. Exhibit R12(o) True copy of the reminder letter vide No.KMRL/PRJ/DESIGN and PLG/180/2022/821 dated 12.10.2022 forwarded by the Addl. 12th Respondent.

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