

Aboobacker vs Valanchery Municipality

Aboobacker vs Valanchery Municipality

SooperKanoon Citation : sooperkanoon.com/1494613

Court : Kerala

Decided On : Oct-06-2022

Judge : Honourable Mr.Justice Murali Purushothaman

Appeal No. : WP(C)/20948/2022

Appellant : Aboobacker

Respondent : Valanchery Municipality

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN THURSDAY, THE 6TH DAY OF OCTOBER 2022 / 14TH ASWINA, 1944 WP(C) NO. 20948 OF 2022 PETITIONER: ABOOBACKER AGED 64 YEARS S/O. MAMMI HAJI, CHERINGAL HOUSE, THOZHUVANUR P. O., MALAPPURAM DISTRICT - 676 552. BY ADV U.K.DEVIDAS RESPONDENTS:

1 VALANCHERY MUNICIPALITY VALANCHERY, MALAPPURAM DISTRICT - 676 552. REPRESENTED BY ITS SECRETARY. 2 SECRETARY, VALANCHERY MUNICIPALITY, VALANCHERY, MALAPPURAM DISTRICT - 676 552. 3 ANWAR KAPPURATH,

KOOZHAKKUNNU, TIRUR ROAD, VALANCHERY, MALAPPURAM - 676 552. 4 OMBUDSMAN FOR THE LOCAL SELF GOVERNMENT AUTHORITIES, 4TH FLOOR, SAPHALYAM COMPLEX, TRIDA BUILDING, UNIVERSITY P. O., PALAYAM, THIRUVANANTHAPURAM - 695 034.

R3 - SRI. NIRMAL V. NAIR - SRI. M.ANEESH - SRI. MUHAMMED NASEEF BIN SALIM - ARATHI PRABHAKARAN SRI. MILLU DANDAPANI - SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The writ petition has been filed challenging Ext.P12 order passed by the 4 th respondent directing the petitioner to demolish certain construction carried out by him in his property. It is contended by the petitioner that Ext.P12 order has been passed without hearing him.

2. Heard the learned counsel for the petitioner, the learned Standing Counsel for respondents 1 and 2 and also the learned counsel for the 3rd respondent.

3. It is submitted by the learned counsel for

the petitioner that when the matter was posted before the Ombudsman, though the petitioner tried to join through on-line, he could not join due to some technical snag.

4. Since Ext.P12 order has been passed

without hearing the petitioner, the same is set aside and the 4th respondent is directed to pass fresh orders after hearing the petitioner, the Municipality and the 3rd respondent. Till fresh orders are passed by the Ombudsman, the structure already constructed by the petitioner shall not be demolished. However, it is made clear that the petitioner shall not carry out any further construction till fresh orders are passed by the Ombudsman. The Ombudsman may endeavour to pass orders

as above within a period of six weeks from the date of receipt of a copy of this
judgment.

The writ petition is disposed of with the above directions. Sd/- MURALI
PURUSHOTHAMAN JUDGE SPR APPENDIX PETITIONER'S EXHIBITS:-

EXHIBIT P1 TRUE COPY OF THE BASIC TAX RECEIPT DATED 17.06.2021 ISSUED BY THE VILLAGE FIELD ASSISTANT, KATTIPPARUTHI. EXHIBIT P2 TRUE COPY OF THE OCCUPANCY CERTIFICATE DATED 30.01.2015 OF THE BUILDING NO. EXHIBIT P3 TRUE COPY OF THE OCCUPANCY CERTIFICATE DATED 30.01.2015 OF THE BUILDING NO. EXHIBIT P4 TRUE COPY OF THE DEMAND NOTICE DATED 21.03.2019 FOR THE PROPERTY TAX OF ROOMS NUMBER 210 A TO C. EXHIBIT P5 TRUE COPY OF THE DEMAND NOTICE DATED 21.03.2019 FOR THE PROPERTY TAX OF ROOMS NUMBER 210 D & E. EXHIBIT P6 TRUE COPY OF THE LETTER DATED 17.12.2021 ISSUED BY THE DISTRICT FIRE OFFICER, MALAPPURAM. EXHIBIT P7 TRUE COPY OF THE ORDER DATED 09.03.2022 ISSUED BY THE SECOND RESPONDENT. EXHIBIT P8 TRUE COPY OF THE NOTICE DATED 09.03.2022 ISSUED BY THE SECOND EXHIBIT P9 TRUE COPY OF THE REPLY LETTER DATED 23.03.2022 SUBMITTED BEFORE SECOND EXHIBIT P10 TRUE COPY OF THE COMPLAINT DATED 25.01.2022 WITHOUT ANNEXURES FILED BY THE THIRD RESPONDENT BEFORE THE FOURTH RESPONDENT AS O.P. NO.90/2022. EXHIBIT P11 RUE COPY OF THE NOTICE IN O.P. NO. EXHIBIT P12 TRUE COPY OF THE ORDER DATED 14.03.2022 IN O.P. 90/2022 ON THE FILES OF THE FOURTH RESPONDENT.

RESPONDENTS EXHIBITS:-

EXHIBIT R3 (A) A TRUE COPY OF THE REPRESENTATION DATED NIL GIVEN BY THE RESIDENTS OF WARD NO. 8 OF THE

VALANCHERY MUNICIPALITY TO THE SECRETARY, VALANCHERY MUNICIPALITY. EXHIBIT R3 (B) A TRUE COPY OF THE LETTER DATED 30-10- 2021 ISSUED BY THE TOWN PLANNER, MALAPPURAM. EXHIBIT R3 (C) A TRUE COPY OF THE LETTER NO. FIREHQ/8403/2021-F2 DATED 11-10-2021 ISSUED BY THE DIRECTOR GENERAL, FIRE AND RESCUE SERVICES. EXHIBIT R3 (D) A TRUE COPY OF THE ORDER NO. C 530/2021 DATED 09-11-2021 ISSUED BY THE STATION OFFICER, FIRE AND RESCUE STATION, TIRUR. EXHIBIT R3 (E) A TRUE COPY OF THE REPORT DATED 17-11- 2021 SUBMITTED BY THE DOMESTIC VIGILANCE CUM INTELLIGENCE SECTION, FIRE AND RESCUE SERVICES, MALAPPURAM. EXHIBIT R3 (F) A TRUE COPY OF THE LETTER NO. F-7834/21 DATED 18-12-2021 SUBMITTED BY THE DISTRICT FIRE OFFICER, MALAPPURAM. EXHIBIT R3 (G) A TRUE COPY OF THE ORDER NO. FIREHQ/8403/2021-F2 DATED 18-02-2022 ISSUED BY THE DIRECTOR GENERAL, FIRE AND RESCUE SERVICES.