

Najeeb a vs the District Collector

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Court : Kerala

Decided On : Jul-30-2020

Judge : Honourable Mr. Justice Alexander Thomas

Appeal No. : WP(C)/14700/2020

Appellant : Najeeb a

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS
THURSDAY, THE 30TH DAY OF JULY 2020 / 8TH SRAVANA, 1942
PETITIONER/S: NAJEEB A, AGED 40 YEARS S/O.ABDUL KHARIM,
PARAMUTTATH VEEDU, 10TH STONE, NEDUMANGAD P.O.,
THIRUVANANTHAPURAM-695541. BY ADVS. SRI.V.A.VINOD
HARIKRISHNAN M.S. RESPONDENT/S: 1 THE DISTRICT
COLLECTOR CIVIL STATION, KUDAPPANAKUNNU,
THIRUVANANTHAPURAM- 695043. 2 THE ASSISTANT ENGINEER,
OFFICE OF THE ASSISTANT ENGINEER, PUBLIC WORKS
DEPARTMENT (ROADS SECTION), PAZHAKUTTY, NEDUMANGAD,
THIRUVANANTHAPURAM-695541.

3 NEDUMANGAD MUNICIPALITY, REPRESENTED BY ITS SECRETARY, NEDUMANGAD, THIRUVANANTHAPURAM-695541. OTHER PRESENT: SRI.SAIGI JACOB PALATTY, SR.GOV.T.PLEADER, SRI.P.RAMACHANDRAN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30.07.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ::2::

ALEXANDER THOMAS, J.

----- W.P(C).No.14700 Of 2020
----- Dated this the 30th day of July, 2020.

JUDGMENT

The case set up in this Writ Petition (Civil) is as follows: That the petitioner was conducting street side fruits vending

stall at Valicode junction. In the month of March, just before lock down, the petitioner's stock was taken away by the Municipality officials stating that he and others are conducting the street side vending against the law and without any permission encroaching upon the P.W.D property. After removing the petitioner and other street side vendors, now the Municipality has started to construct bunks in the very same place itself that too encroaching upon PWD Road Puramboke, it is averred. That the PWD officials gave a reply stating that they have not given any permission to the Municipality and also has stated that they have already taken steps to move legally against the Municipality as the construction carried out was illegal. Pointing out the illegal act on the part of the 3 rd respondent Municipality, the petitioner has preferred a complaint before the District Collector but the same is not considered so far. Even if the construction is allowed to be continued the same has to be pulled down when the work of proposed Vazhayila - Pazhakutty four lane road starts which is going to start without much delay and in such an event the public money which is being used by the Municipality for the construction will be wasted.

::3:: It is in the light of these factual averments that the petitioner has filed the instant Writ Petition seeking the following reliefs: 1. To issue a writ of mandamus or any appropriate writ order or direction, directing the 1st and 2nd respondent to take appropriate action against the illegal construction carried out by the 3rd respondent Municipality on the side of Thiruvananthapuram - Chenkotta SH Road near Valicode junction forthwith.

2. To issue a writ of mandamus or any appropriate writ order or

direction, directing the 1st respondent to consider and pass appropriate orders on Ext P-2 complaint after affording an opportunity of hearing to the petitioner within a time frame fixed by this Hon'ble Court.

3. grant such other reliefs prayed for from time to time including cost of these proceedings.

2. Heard Sri.V.A.Vinod, learned counsel for the petitioner,

Sri.Saigi Jacob Palatty, learned Senior Government Pleader appearing for respondents 1 & 2 and Sri.P.Ramachandran, learned counsel appearing for the 3rd respondent.

3. Without getting into the merits of the controversy in

any manner, it is ordered that the 1 st respondent-District Collector will take up for consideration the matter raised in Ext.P-2 representation/complaint dated 2.7.2020 without any further delay and after getting the report in the matter from respondents 2 & 3 and after ensuring that copies of the said report are given to the petitioner and after affording reasonable opportunity of being heard to the petitioner and also ascertaining the views of ::4:: respondents 2 & 3 may take a considered decision on the matters raised in Ext.P-2 representation/complaint without much delay, preferably within a period of of 2 months from the date of production of a certified copy of this judgment.

The petitioner will produce certified copies of this judgment

along with copies of the memorandum of Writ Petition with all exhibits before the respondents for necessary information and further action. With these observations and directions, the above Writ Petition (Civil) will stand finally disposed of. Sd/- ALEXANDER THOMAS, Judge. bkn/- ::5:: APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE REPLY GIVEN BY THE 2ND RESPONDENT DATED 7.5.2020. EXHIBIT P2 TRUE COPY OF THE COMPLAINT PREFERRED BY THE PETITIONER DATED 2.7.2020. EXHIBIT P3 TRUE COPY OF THE RECEIPT DATED 2.7.2020 EVIDENCING ACCEPTANCE OF EXT.P-2.

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