

Corporation of vs S.Krishnakumar

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Court : Kerala

Decided On : Mar-14-2019

Judge : Honourable the Chief Justice Mr.Hrishikesh Roy,Honourable Dr. Justice a.K.Jayasankaran Nambiar

Appeal No. : RP/24/2019

Appellant : Corporation of

Respondent : S.Krishnakumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE THE CHIEF JUSTICE MR.HRISHIKESH ROY & THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR THURSDAY, THE 14TH DAY OF MARCH 2019 / 23RD PHALGUNA, 1940 RP.No.24 of 2019 IN W.A.82/2016 AGAINST THE JUDGMENT IN W.A.82/2016 of HIGH COURT REVIEW PETITIONER/RESPONDENT/RESPONDENT: CORPORATION OF THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY, CORPORATION BUILDINGS, VIKAS BHAVAN, THIRUVANANTHAPURAM 695 033. BY ADVS. SRI.N.NANDAKUMARA MENON (SR.) SRI.P.K.MANOJKUMAR,SC,TVPM CORPORATION

RESPONDENT/APPELLANT/PETITIONER: S.KRISHNAKUMAR, AGED 50 YEARS, S/O LATE M.G.SIVASANKARA KURUP, MANAGING DIRECTOR, LIFE SPAN, INFRASTRUCTURE INDIA PVT. LIMITED, ANA NIKUNJAM CONSTRUCTIONS PVT. LTD. INDRAPRASTHAM, PATTOM P O, THIRUVANANTHAPURAM 695 004. BY ADV. SRI.R.S.KALKURA THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 14.03.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: : 2 :

ORDER

A.K.JYASANKARAN NAMBIAR,J.

This review petition has been preferred by the Trivandrum Corporation, seeking to review the judgment dated 27.6.2018 in Writ Appeal No.82/16. The contention of the review petitioner is essentially that, at the time of disposing the Writ Appeal through the

judgment aforementioned, the fact that the Secretary of the Corporation had in fact

passed an order on 13.03.2013, on the application for site approval, and despatched the same on 15.3.2013, was not brought to the notice of this court and hence, the view taken by the court that the provisions of Section 392 of the Kerala Municipalities Act, 1991 stood attracted, requires to be reviewed.

2. On considering the submission made on behalf of the review petitioner by the learned Senior Counsel Sri.N.Nandakumara Menon assisted by Adv.Smitha S. Pillai, we find that this Court had, in the judgment aforementioned, specifically noted the contention that the Secretary of the Corporation had rejected the request for approval preferred by the appellant on 13.3.2013 but then noted that the said order was not

communicated to the appellant till 25.3.2013. While it may be a fact that the order

communicated on 25.3.2013 had been passed on 13.3.2013 and was despatched on 15.3.2013, we are of the view that the employment of the phrase 'intimation' in Section 390 would necessarily mandate that the order passed by the Secretary was duly communicated to the applicant before the expiry of the period of 30 days mentioned in Section 390. In fact, even a perusal of Section 392 of the Act would reveal that the time for the applicant to take the subsequent action, in the event of the Secretary not acting

: 3 :

within the time period of 30 days envisaged in Section 390, commences from the expiry of the 30 days period mentioned in Section 390. Thus, on a reading of Sections 390 and 392 together, the inference is inescapable that for there to have been an effective intimation of the order contemplated under Section 390, the said order had not only to have been passed, but also communicated/intimated to the applicant within the said period of 30 days.

3. We, therefore, see no reason to review the judgment dated 27.6.2018 in the Writ Appeal No.82/16. The Review Petition, therefore, fails and it is accordingly dismissed. HRISHIKESH ROY CHIEF JUSTICE A.K.JAYASANKARAN NAMBIAR JUDGE jes

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