

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 29TH DAY OF MAY 2020 / 8TH JYAISHTA, 1942

WP(C).No.10446 OF 2020(E)

PETITIONER/S:

P.S.MURALEEDHARAN, AGED 65 YEARS
S/O.P.A. SREEDHARAN, KEECHERYPARAMBIL HOUSE,
KALOOR P.O. ERNAKULAM DISTRICT 682 017.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT/S:

- 1 THE STATE OF KERALA ,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
LOCAL SELF GOVERNMENT INSTITUTIONS, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM DISTRICT .
- 2 THE CORPORATION OF COCHIN,
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,
BOAT JETTY, ERNAKULAM DISTRICT 682 023.
- 3 C R LIBORIOUS, AGED 62 YEARS
S/O. C.C. RAPHEAL CHULLIPARAMBIL HOUSE,
ASHRAMAM LANE, AZAD ROAD, KALOOR P.O.
ERNAKULAM DISTRICT 682 017.

OTHER PRESENT:

SRI.K.J.MANURAJ, GOVERNMENT PLEADER
SRI.SUDHEESH KUMAR,SC FOR R2
ADV.SRI.M.P.RAMANATHAN, FOR R-3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29.05.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J.

W.P(C).No.10446 Of 2020

Dated this the 29th day of May, 2020.

J U D G M E N T

The prayers in the aforecaptioned Writ Petition (Civil) are as follows:

- “(i) *Issue a Writ of Mandamus or any other appropriate Writ, order or direction commanding the second respondent to take note of the requirement projected in Ext-P3 and to direct the said respondent to monitor and see to it what the 3rd respondent completes the work in a time bound manner, at least regarding the basement, in the interest of justice, and*
- (ii) *To pass any such or further orders as the petitioner may seek and this Hon'ble Court deem fit to grant.”*

2. Heard Sri.G.Sreekumar (Chelur), learned counsel for the petitioner, Sri.K.J.Manuraj, learned Government Pleader appearing for the 1st respondent, Sri.S.Sudhish Kumar, learned counsel for the 2nd respondent and Sri.M.P.Ramanathan, learned counsel appearing for the contesting 3rd respondent.

3. The case of the petitioner is that a commercial building is now being constructed by the 3rd respondent in a property which is adjacent to the petitioner's property and that some of the issues in the construction relating to works done in the basement part of the construction is causing serious problems of water logging

which, if, left unremedied, would detrimentally affect the petitioner's property as well as even leading to the collapse of his building, etc. It appears that yet another person has given a formal complaint in writing to the 2nd respondent in which the Assistant Executive Engineer, Zonal Office, Edappally of the 2nd respondent-Cochin Municipal Corporation has issued Ext.R-3(3) stop memo dated 13.5.2020 directing the 3rd respondent to immediately stop the work and to immediately carryout remedial measures without any further delay and also to submit the report of the structural engineer, etc. Sri.M.P.Ramanathan, learned counsel for the 3rd respondent would submit on the basis of the pleadings in the counter affidavit dated 28.5.2020 of the 3rd respondent that pursuant to Ext.R-3(3) stop memo, the 3rd respondent has immediately completed all the requisite remedial measures and has submitted Ext.R-3(9) letter dated 25.5.2020 to the said Assistant Executive Engineer, Zonal Office, Edappally of the 2nd respondent-Cochin Municipal Corporation along with structural report and Ext.R-3(9) has been duly received by the said Assistant Executive Engineer as can be seen from Ext.R-3(10) receipt.

4. As a matter of fact, if the 3rd respondent has taken the remedial measures as stated by him, then the continuance of the stop memo as per Ext.R-3(3) may only be more detrimental to the petitioner as heavy rains are expected immediately. Accordingly, it is ordered that the Assistant Executive Engineer, Zonal Office, Edappally, of the 2nd respondent-Cochin Municipal Corporation, will immediately make a site inspection and should ascertain the correctness of the matter stated in Ext.R-3(9) and if the 3rd respondent has rectified the deficiency noted in Ext.R-3(3), then steps may be taken to ensure that works in the basement part of the structure is duly completed by the 3rd respondent with all expedition. Though this Court is not fully aware about the actual ground realities, it appears from the pleadings that if the work in the basement part of the structure is delayed it could possibly lead to more water logging even as per the case projected by the petitioner in which case, it will be more detrimental to the petitioner and other complainants and it is in the interest of all parties concerned, that the 2nd respondent-Cochin Municipal Corporation and its Assistant Executive Engineer take expeditious action so that the abovesaid dispute is settled without any further

delay. The process in this regard should be duly completed by the 2nd respondent, more particularly, the Assistant Executive Engineer on an emergent basis, at any rate, within a period of 3 days from the date of receipt of a copy of this judgment.

The petitioner and the 3rd respondent may ensure that copies of this judgment is immediately served not only on the Secretary of the Cochin Municipal Corporation but also on the Assistant Executive Engineer, Zonal Office, Cochin Municipal Corporation, Edappally for immediate action and compliance.

With these observations and directions, the above Writ Petition (Civil) will stand finally disposed of.

**Sd/-
ALEXANDER THOMAS,
Judge.**

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1 A TRUE COPY OF THE ROUGH SKETCH
PREPARED DATED NIL.

EXHIBIT P2 A TRUE COPY OF THE PHOTOGRAPHS TAKEN
DATED 25.5.2020.

EXHIBIT P3 A TRUE COPY OF THE REPRESENTATION
FILED BY THE PETITIONER AND OTHERS
DATED 18.5.2020.