



2024/KER/2960

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 12TH DAY OF JANUARY 2024 / 22ND POUSHA, 1945

WP(C) NO. 36125 OF 2023

PETITIONER:

MOHAMMED MANATH IBRAHIM,
AGED 65 YEARS



BY ADVS.

M.T.SURESHKUMAR
MANJUSHA K
RESWIN A. KHADIR
SREELAKSHMI SABU

RESPONDENTS:

- 1 THRIKKAKARA MUNICIPALITY REPRESENTED BY ITS SECRETARY,
KAKKANAD, KOCHI, ERNAKULAM, KERALA, PIN - 682 030.
- 2 THE SECRETARY,
THRIKKAKARA MUNICIPALITY CORPORATION, KAKKANAD, KOCHI,
ERNAKULAM, KERALA, PIN - 682 030.
- 3 KOCHI METRO RAIL LTD, REPRESENTED BY ITS MANAGER,
4TH FLOOR, JN METRO STATION, KALOOR, KOCHI,
PIN - 682 017.
- 4 STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF
SECRETARY OF DEPARTMENT OF LOCAL SELF-GOVERNMENT
REPRESENTED BY GOVERNMENT PLEADER,
HIGH COURT OF KERALA, PIN - 682 031.

BY ADVS.

S.JAMAL, SC, THRIKKAKARA MUNICIPALITY
M.U.VIJAYALAKSHMI (SC)(FOR R3)
K.JAJU BABU (SR.)
DEVISHRI .R (GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

Petitioner has approached this Court being aggrieved by the fact that a substantial amount of waste have been dumped in a plot of land belonging to the Kochi Metro Rail Ltd. (Kochi Metro) on the northern side of the NGO Quarters-Mavelipuram road. It is submitted that the said parcel of land is part of the land allotted to the Kochi Metro for the purposes of expansion of the Kochi Metro to the Kakkanad area.

2. Learned counsel appearing for the Kochi Metro would submit with reference to the affidavit filed in this Court that the Kochi Metro had attempted to fence the said land to prevent the dumping of waste. It is submitted that the same was obstructed by the local residents including the petitioner herein and the Kochi Metro is ready and willing to fence the land or construct a compound wall immediately.

3. Learned counsel appearing for the petitioner would submit that the accumulated waste must be removed.

4. Learned counsel appearing for the Municipality submits that the Municipality has no responsibility to remove



the waste, as it is waste dumped in the property of the Kochi Metro.

5. I do not consider that the submission of the learned counsel for the Municipality is the correct legal position in law. It is the primary duty of the Municipality to deal with municipal waste. The fact that such municipal waste has been illegally dumped in private property (here the property of the Kochi Metro) cannot absolve the Municipality from the liability of removing the waste for proper treatment as is done in the case of other municipal waste being collected and processed by the Municipality.

6. In the light of the above, the writ petition will stand disposed of with the following directions:

(i) The 3rd respondent shall take immediate steps to either fence or construct a compound wall around the property in question to prevent illegal dumping of waste. This may be done by the Kochi Metro ignoring Ext.R3(b). If any obstruction is caused by any person, it will be open to the Kochi Metro to seek appropriate assistance from the Inspector of Police having jurisdiction over the area.



-:4:-

(ii) The 3rd respondent shall engage necessary men and machinery to remove the accumulated waste to a site suggested by the Thrikkakara Municipality at its cost (cost of Kochi Metro).

(iii) The Thrikkakara Municipality shall accept the accumulated waste without segregation and shall deal with the same as is done in the case of other municipal waste collected by the Thrikkakara Municipality.

The steps to remove the waste as directed above shall be completed within a period of one month from the date of receipt of a certified copy of this judgment. The Municipality shall also give suitable instructions regarding the site to which the waste has to be removed so as to enable the 3rd respondent to remove the waste as directed above within the time specified.

Sd/-
GOPINATH P.
JUDGE

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**APPENDIX OF WP(C) 36125/2023**

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE PRINTOUT OF GOOGLE MAP OF THE LOCATION WITH SPECIFICALLY MARKING THE PROPERTY UNDER THE CONTROL OF RESPONDENT NO. 3 AS 'A'
- Exhibit P2 THE PHOTOGRAPHS SHOWING THE ILLEGAL WASTE DISPOSAL BY PEOPLE.
- Exhibit P3 THE PHOTOCOPY OF NOTICE BY THE PETITIONER TO 1ST RESPONDENT DATED 11/07/2023
- Exhibit P4 THE PHOTOCOPY OF NEWS CAME IN NEWSPAPERS
- Exhibit P5 A PHOTOCOPY COPY OF THE INTIMATION ISSUED FROM THE OFFICE OF THE CLEAN CITY MANAGER OF THE 1ST RESPONDENT DATED 5-9-2023.
- Exhibit P6 THE PHOTOCOPY OF NOTICE ISSUED BY 3RD RESPONDENT TO 1ST RESPONDENT DATED 01/10/2023
- Exhibit P7 The recent photographs would show the current condition in property belonging to 3rd respondent
- Exhibit P8 The existing location sketch showing road from NGO quarters main road to Kizhakekara road
- Exhibit P9 The proposed and approved location sketch for having road from NGO quarters main road to Kizhakekara road by Ernakulam District Collector
- Exhibit P10 The photocopy of news came in the Suprabadham newspaper

RESPONDENT EXHIBITS

- Exhibit R3(a) True copy of the letter No.KMRL/PRJ/PD-KKD/57/2013/308 dated 09.07.2019 forwarded by this respondent to Commissioner of Police



- Exhibit R3(b) True copy of the minutes of the meeting held on 29.07.2019 by the officials with the then MLA and decision No.L1-73108/11 dated 30.07.2019.
- Exhibit R3(c) True copy of the letter No.KMRL/PRJ/PD-KKD/57/2013/228 dated 06.08.2019 forwarded by this respondent to the Commissioner of Police.
- Exhibit R3(d) True copy of the sketch of the property assigned to this respondent
- Exhibit R3(e) True copy of the complaint No.KMRL/PRJ/PD-KKD/57/2013/3240 dated 16.08.2019 submitted by this respondent to the CI of Police.
- Exhibit R3(f) True copy of the complaint No.KMRL/FIN/ESTATE/CORRES/GEN/2019/2023-03 dated 02.08.2023 submitted by this respondent to the CI of Police.
- Exhibit R3(g) True copy of the letter No.KMRL/Bliss city/Thrikkakara Municipal/01 dated 01.10.2023 forwarded by this respondent to Assistant Police Commissioner
- Exhibit R3(h) True copy of the letter No.KMRL/NGO-Kakkanad/Thrikkakara/02 dated 01.10.2023 forwarded by this respondent to Municipal Chair Person
- Exhibit R3(i) True copy of the reminder letter No.KMRL/KMRL/FIN/ESTATE/CORRES/GEN/2019/2023 dated 05.10.2023 forwarded by this respondent to the Station House Officer.
- Exhibit R3(j) True copy of the letter No.KMRL/NGO-Kakkanad/Thrikkakara /02 dated 13.11.2023 forwarded by this respondent to Municipal Chair Person.
- Exhibit R3(k) True copy of the letter No.H1-21354/23 dated 01.12.2023 forwarded by the Thrikkakara Municipality to this respondent.