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2026:KER:22645

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

THURSDAY, THE 12TH DAY OF MARCH 2026/21ST PHALGUNA, 1947

WP(C) NO. 4327 OF 2026

PETITIONER:

C. A. JALEEL
AGED 63 YEARS, S/O. ABDUL KHADER,
CHENNOTH HOUSE, THAIKKATTUKARA P. O.,
CHOORNIKKARA, ALUVA TALUK,
ERNAKULAM DISTRICT, PIN - 683106

BY
ADV.DINESH MATHEW J.MURICKEN
ADV.K.A.ABHILASH
ADV.VINOD S. PILLAI
ADV.MOHAMMED THAYIB N.M.
ADV.NAYANA VARGHESE
ADV.RIA VARGHESE
ADV.JERRY PETER
ADV.GOUTHAM CHANDRASEKHAR

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT, ROOM NO.403,
4TH FLOOR, SECRETARIAT ANNEXE, STATUE JUNCTION,
THIRUVANANTHAPURAM GENERAL.P.O.,
THIRUVANANTHAPURAM DISTRICT, PIN - 695001



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- 2 CHOORNIKKARA GRAMA PANCHAYAT
THAIKATTUKARA.P.O., CHOORNIKKARA,
ALUVA TALUK, ERNAKULAM DISTRICT,
REPRESENTED BY ITS SECRETARY, PIN - 683106
- 3 THE SECRETARY
CHOORNIKKARA GRAMA PANCHAYAT,
THAIKATTUKARA.P.O., CHOORNIKKARA, ALUVA TALUK,
ERNAKULAM DISTRICT, PIN - 683106
- 4 THE DISTRICT DISASTER MANAGEMENT AUTHORITY
REPRESENTED BY ITS CHAIRMAN,
OFFICE OF THE DISTRICT DISASTER MANAGEMENT
AUTHORITY, COLLECTORATE, CIVIL STATION P.O.,
ERNAKULAM DISTRICT, PIN - 682030
- 5 THE DISTRICT COLLECTOR (ERNAKULAM)
COLLECTORATE, CIVIL STATION P.O.,
ERNAKULAM DISTRICT, PIN - 682030

BY
ADV.ANIL K.MUHAMED

OTHER PRESENT:

ADV.VIDHYA A.C. - GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 12.03.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



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“C.R.”

J U D G M E N T

Dated this the 12th day of March, 2026

Ext.P9 is under challenge in this Writ Petition, which is an Order passed by the Chairperson of the District Disaster Management Authority, calling upon the 3rd respondent/Secretary of the Grama Panchayath concerned to demolish the building, wherein the petitioner is a tenant. The nature of the Order passed is the essence of the dispute involved in this Writ Petition. The petitioner would assail Ext.P9 under the following premises:

If it is one passed under Section 30(2)(v) of the Disaster Management Act, 2005, ('the Act', for short), the 5th respondent/District Collector, in his capacity as the Chairperson of the District Disaster Management Authority, has no power. Per contra, if it is one passed under Section 26(2) of the Act, there is no pressing emergency enabling



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the issuance of such an Order. Nor was there any ratification of the same by the Authority, as enjoined by Section 26(2) of the Act. Thus Ext.P9 is bad in law, is the petitioner's contention.

2. Learned Government Pleader would submit that, Ext.P9 is issued by the District Disaster Management Authority, represented by the Chairperson; and not by the Chairperson in her individual capacity. According to the learned Government Pleader, Ext.P9 Order is liable to be treated as one under Section 30(2)(v) of the Act, which has been specifically recited towards the end of the Order.

3. Learned Standing Counsel for the 2nd respondent Panchayath would submit that the building in question is in a dilapidated condition, and the same requires emergent demolition, for the purpose of reconstruction. All the Government offices in the building have been vacated, and the solitary person now occupying the building, is the



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petitioner, who is a tenant under the Panchayath. Since Ext.P9 recites that the building is lying in a dangerous condition, the emergent situation, as contemplated in Section 26(2) is quite reflected, wherefore, the Chairperson of the Authority, by himself, is empowered to pass Ext.P9 Order.

4. Having heard the learned counsel appearing for the respective parties, this Court can only endorse the submissions made by the learned counsel for the petitioner. The heading of the impugned Ext.P9 is that it is a proceeding issued by the Chairperson of the Ernakulam District Disaster Management Authority, who is also the District Collector. Towards the end of Ext.P9 Order - as pointed out by the learned Government Pleader - the power is seen traced specifically to Section 30(2)(v) of the Act. A perusal of Section 30 of the Act would indicate that the Section deals with the powers and functions of the 'District Authority'. All the powers, inclusive of the



power under Section 30(2)(v), are bestowed on the District Authority by the statute; and not on the Chairperson. A perusal of Ext.P9 would indicate that the same has been issued by the Chairperson. This Court specifically queried to the learned Government Pleader as to whether any authority meeting was held by the persons, who constitute the Authority in terms of Section 25 of the Act. If the answer is in the affirmative, this Court was inclined to grant time to the learned Government Pleader to produce the records. However, no such meeting was convened, is the answer given. Therefore, there cannot be any quarrel with respect to the factual position that Ext.P9 is issued by the Chairperson, in her official capacity; and not by the District Authority. Therefore, Ext.P9 can be saved, only if the power can be traced to Section 26(2).

5. Section 26 deals with the powers of the Chairperson of the District Authority. Section 26(2) is extracted here



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below:

“26.Powers of Chairperson of District Authority.–

(1) xxx

(2) The Chairperson of the District Authority shall, in the case of an emergency, have power to exercise all or any of the powers of the District Authority but the exercise of such powers shall be subject to ex post facto ratification of the District Authority.”

6. A perusal of the above provision would indicate that the powers virtually vest with the District Authority, but the exercise of which has been given to the Chairperson, in cases of emergency. In other words, the Chairperson is empowered to exercise all or any of the powers of the District Authority in case of emergency, subject to the condition that the action taken in exercise of the power has to obtain *ex post facto* ratification by the District Authority. Therefore, to invoke the powers under Section 26(2), the situation should be a real emergency, wherein the convening of a meeting by the District Authority is a



practical impossibility. Rather, action is warranted immediately and waiting for the outcome of the Authority meeting will make the disaster happen; and if already happened, worse.

7. Coming to the instant facts, a perusal of Ext.P9 would indicate that a notice has been issued by the Panchayath to the petitioner calling upon him to vacate. A proceeding was issued by the Local Self Government Department granting consent for demolition of the subject building, belonging to the Panchayath. Upon receipt of notice by the Panchayath, the petitioner approached the Munsiff Court concerned by filing O.S.No.203/2024. The recital in Ext.P9 would indicate that, because of the suit, the petitioner could not be evicted. Learned counsel for the petitioner would submit that the Panchayath chose to remain *ex parte* in that suit; and an application to set aside that Order is pending consideration. It is in such circumstance, that the provisions of the Disaster Management Act has been



purportedly invoked by the Chairperson. The above narration of events would not answer the requirements of an emergency, so as to invoke Section 26(2). Nor is there any 'disaster' as defined in Section 2(d) of Act 53 of 2005. It is when the regular mechanism for eviction was found to be not feasible - rather time consuming - that recourse to the Disaster Management Act, 2005, has been made, which exercise cannot be sanctioned in law. This Court, therefore, concludes that the action cannot be saved under Section 26(2) as well. In the circumstances, Ext.P9 will stand set aside.

8. Needless to say that the rights of the competent authority to evict the petitioner as per law remains unaffected by this judgment.

The Writ Petition (Civil) will stand allowed, as above.

Sd/-

**C. JAYACHANDRAN
JUDGE**



APPENDIX OF WP(C) NO. 4327 OF 2026

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED FROM THE ERNAKULAM MEDICAL CENTRE (P) LTD., ERNAKULAM DATED 25.02.2025
- Exhibit P2 TRUE COPY OF THE RECEIPT EVIDENCING THE PAYMENT OF RENT FOR THE MONTH OF JULY 2025 DATED 05.08.2025
- Exhibit P3 TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER DATED 29.05.2024
- Exhibit P4 TRUE COPY OF THE OBJECTION TO EXHIBIT P3 NOTICE FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 06.06.2024
- Exhibit P5 TRUE COPY OF THE PLAINT IN O.S.NO.203/2024 ON THE FILE OF MUNSIF COURT, ALUVA DATED 12.06.2024
- Exhibit P6 TRUE COPY OF THE PROCEEDING IN O.S.NO.203/2024 ON THE FILE OF MUNSIF COURT, ALUVA DATED 08.08.2025
- Exhibit P7 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT GRAMA PANCHAYAT TO THE PETITIONER DATED 14.08.2025
- Exhibit P8 THE TRUE COPY OF THE ORDER PASSED BY THIS HONORABLE COURT IN WP(C) NO. 32205 OF 2025 DATED 26-08-2025
- Exhibit P9 THE TRUE COPY OF THE ORDER NO. DCEKM/9766/2025-D1 PASSED BY THE 4TH RESPONDENT DATED 13/8/2025
- Exhibit P10 TRUE COPY OF THE CERTIFICATE ISSUED BY THE 3RD RESPONDENT DATED 01-09-2023