



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

TUESDAY, THE 28TH DAY OF JULY 2026 / 6TH SRAVANA, 1948

RSA NO. 16 OF 2018

AGAINST THE JUDGMENT AND DECREE DATED 26.07.2017 IN AS NO.81
OF 2011 OF SUB COURT, PAYYANNUR WHICH ARISES FROM THE JUDGMENT
AND DECREE DATED 30.09.2011 IN OS NO.130 OF 2010 OF MUNSIFF
COURT, TALIPARAMBA

APPELLANT/APPELLANT/DEFENDANT:

THE ERUVESY GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, CHEMPERI.P.O.,
TALIPARAMBA TALUK, KANNUR DISTRICT -670 632.

BY ADV SRI.P.B.AJOY

RESPONDENT/RESPONDENT/PLAINTIFF:

TANKAPPAN
S/O.KESAVAN, AGED 70 YEARS, OLIVEETTIKKAL HOUSE,
ERUVESY AMSOM DESOM, SREEKANDAPURAM.P.O.,
TALIPARAMBA, KANNUR DISTRICT - 670 631.

BY ADVS.
SRI.A.C.VENUGOPAL
SMT.VIDHYA. A.C
ADV.SRI.P.G.JAYASANKAR, AMICUS CURIAE

THIS REGULAR SECOND APPEAL HAVING COME UP FOR HEARING ON
23.07.2026, THE COURT ON 28.07.2026 DELIVERED THE FOLLOWING:



CR

SATHISH NINAN & P. KRISHNA KUMAR, JJ.

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R.S.A.No.16 OF 2018

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Dated this the 28th day of July, 2026JUDGMENTP.Krishna Kumar, J.

The respondent herein sued the appellant Grama Panchayat seeking damages, alleging that he sustained physical injuries in a stray dog attack. The trial court and the first appellate court concurrently held the appellant Grama Panchayat liable for damages. Hence, this second appeal.

2. The second appeal was admitted on the following substantial questions of law:

A. Have not the courts below erred substantially in law in finding that the suit is not barred by limitation by applying Article 113 of the Limitation Act?

B. Have not the courts below erred in law in failing to see that the proper law of limitation governing the instant case is either Section 249(1)(b) of the Panchayati Raj Act, 1994 or Article 72 of the Limitation Act, 1963, as the case may be?

C. Have not the courts below erred substantially in law in finding that Section 254 of the Kerala Panchayat Raj Act,



1994 read with Kerala Panchayat Raj (Licensing of Pigs and Dogs) Rules, 1998 imposes a statutory duty on the defendant to seize and destroy stray dogs without any complaint?

D. Has not the lower appellate court erred substantially in law in finding that Section 38 of the Prevention of Cruelty to Animals Act, 1960 read with the Animal Birth Control (Dogs) Rules, 2001 imposes a statutory duty on the defendant to seize and destroy stray dogs without any complaint?

E. Have not the courts below erred substantially in law in finding that an isolated incident of a dog bite is sufficient to hold that there was a breach/failure on the part of the defendant to discharge the statutory duty cast on it under the Kerala Panchayat Raj (Licensing of Pigs and Dogs) Rules, 1998 and the Animal Birth Control (Dogs) Rules, 2001?

F. Have not the courts below erred substantially in law in finding that an isolated incident of dog bite was foreseeable by the defendant in the absence of a complaint?

G. Have not the courts below erred substantially in law in quantifying the damages caused to the plaintiff without any evidence to prove the same?

3. In *Porathissery Grama Panchayath v. Anthony and Another* [2016 (4) KHC 409], a learned Single Judge of this Court held that the Grama Panchayats have a duty to take adequate measures within their territorial limits to prevent the danger of stray dogs biting persons and that they are liable to pay damages to the victims on account of the breach of such statutory obligation. In *Corporation of Calicut v. Veluthedath Bindu* (A.S. No.307/1997, judgment dated 09.10.2007), a learned Single Judge held that,



based on an isolated incident of a stray dog bite, it could not be held that there was a failure to discharge the statutory duty cast upon the Corporation, amounting to tortious liability. Thus, the Court set aside the decree awarding damages to the victim. Noticing the above diverse views, a learned Single Judge referred the case for consideration by a Division Bench, and accordingly, this second appeal has come up before us.

4. For the sake of convenience, the parties shall hereinafter be referred to as they were arrayed in the suit. The plaintiff is a permanent resident within the limits of the defendant Panchayat. On 23.09.2007 at about 5.30 p.m., while he was walking along the Hill Highway at Pooparamba within the territorial limits of the said Panchayat, a stray dog bit him, causing serious wounds on his left leg. The plaintiff was taken to the Taluk Hospital, Thaliparamba, where he was treated for the injuries sustained and administered anti-rabies injections. Claiming that the plaintiff suffered both physical injuries and mental agony, the suit in question was laid alleging that the incident occurred solely due to the breach of the statutory duty of the Panchayat to control and seize stray dogs.



5. The defendant refuted the above allegations. It was stated that the Panchayat had taken all necessary steps and the prescribed procedures under law, to control stray dogs within the limits of Eruvessy Grama Panchayat and that there were no stray dogs within its limits. It was also contended that the Panchayat had never received any complaint regarding the nuisance caused by stray dogs. According to the defendant, the plaintiff might have been bitten by a stray dog at a location outside the defendant Panchayat's limits.

6. On analysing the oral evidence of PWs 1 and 2 and DW1, and the documentary evidence marked as Exts. A1 to A8 and Ext. B1, the trial court concluded that the incident occurred within the limits of the defendant Panchayat and that there was neglect on the part of the Panchayat in discharging its statutory duty to destroy stray dogs. The trial court further held that, though the Panchayat was duty-bound to prevent the menace of stray dogs by insisting on licences for dogs within the limits of the Panchayat, no such action had been taken during the years 2007-2008 or even during the preceding ten years. After assessing the probable loss of earnings as well as the pain and suffering endured by the plaintiff as a result of the incident, the trial court held that



the plaintiff was entitled to recover ₹10,000/- as compensation from the defendant with interest at the rate of 6% per annum. The first appellate court, after reappreciating the entire evidence, confirmed the above findings of fact and upheld the impugned judgment.

7. We have heard Sri. P.B. Ajoy, the learned counsel appearing for the defendant/appellant, Sri. A.C. Venugopal, the learned counsel appearing for the plaintiff/respondent, and Sri.P.G.Jayasankar, the learned Amicus Curiae.

8. The facts stated above remain unchallenged before us. The findings of fact are concurrent. In the appeal under Section 100 of the Code of Civil Procedure, we are not expected to reappreciate the evidence. The principal question raised before us by the defendant Panchayat is the legality of imposing tortious liability upon it for the alleged breach of duty.

9. The learned counsel appearing for the Panchayat vehemently argued that, in the absence of repeated complaints regarding the menace of stray dogs and consequential inaction on the part of the Panchayat authorities, it cannot be held that the Grama Panchayat



has any tortious liability to compensate the victim of a stray dog attack. It was further contended that the Grama Panchayat receives no financial assistance from the State to deal with the menace of stray dogs or to control or seize such dogs. If the civil courts start awarding compensation to victims in such incidents, it would open floodgates of litigation, and the Grama Panchayat would not be in a position to discharge its regular functions. A particular Panchayat cannot devise or introduce any mechanism to prevent the entry of stray dogs from neighbouring Panchayats and, therefore, it is highly impracticable to hold that in every case of a stray dog bite, the Panchayat has a duty to compensate the victim. It was further submitted that, though the law relating to Local Self Government Institutions casts a duty on the Panchayat to eradicate stray dogs, the provisions contained in the Prevention of Cruelty to Animals Act, 1960 override such provisions and, in the light of the various decisions of the Apex Court, the Panchayat cannot exercise such powers. The local authority is only one of the agencies to control the street dog, whereas participation of various other functionalities are required to achieve the object of the law, it is argued.

10. On the other hand, the learned counsel appearing for the



plaintiff submitted that, in view of Section 166(1) of the Kerala Panchayat Raj Act, 1994, the Village Panchayat is duty-bound to issue licences to dogs and to seize and destroy stray dogs. It was further contended that Rule 6 of the Kerala Panchayat Raj (Licensing of Pigs and Dogs) Rules, 1998 declares that it is a mandatory function of the Panchayat to control and seize stray dogs. According to the learned counsel appearing for the plaintiff, once it was established during trial that the Panchayat had failed to take any such action, it cannot evade its responsibility to pay compensation to the plaintiff, who suffered damage as a result of the defendant's breach of duty. The learned *Amicus Curiae* also took us through a host of decisions bearing on the issues in controversy.

11. Let us first consider the statutory provisions relating to the issue to determine whether the Panchayat has a duty to destroy, prevent or control stray dogs.

12. Section 166 of the Kerala Panchayat Raj Act, 1994 ("the Act", for short) provides that it shall be the duty of the Village Panchayats to meet the requirements of the Village Panchayat area in respect of the matters enumerated in the Third Schedule. In the



Third Schedule, under the heading "Mandatory Functions", Serial No. 27 reads as "Issue licence to domestic dogs and to destroy stray dogs".

13. Section 254(2)(ii) of the Act empowers the Government to frame Rules to carry out the purposes of the Act. The Kerala Panchayat Raj (Licensing of Pigs and Dogs) Rules, 1998 ("the Dog Rules", for short), is framed by the Government under the above provision. As per Rule 6(1) of the Rules, it shall be the inevitable function of every Village Panchayat to seize and destroy stray dogs and pigs. Rule 6 reads as follows:

"6. Power to destroy stray dogs and pigs.-
(1)It shall be the inevitable function of every Village Panchayat to seize and destroy stray dogs and pigs.
(2)The Village Panchayat may employ specially trained persons to seize and destroy stray dogs and pigs and he shall be paid remuneration as may be fixed by the Government from time to time.
(3)Any person obstructing the person authorised by the Village Panchayat to destroy stray dogs and pigs shall, on conviction, be punished with fine which may extend up to five hundred rupees."

Rule 3 of the said Rules empowers the Village Panchayats to decide, by a resolution, that no person shall rear or keep dogs/pigs in the Village Panchayat area without a licence. As per Rule 4, where the Village Panchayat has taken a decision under



Rule 3, every person possessing a dog shall submit an application showing the details, such as the age, colour and breed of the animal, for obtaining a licence to rear or keep such animal. The Secretary of the Panchayat shall issue a sealed metal token as an indication of the issuance of the licence, which shall be tied around the neck of the animal. The owner who has obtained a licence is under a duty not to allow the dog to stray. He can rear it only within his premises. The Rule further mandates that the licence shall contain a provision to ensure compliance with the above condition. Rules 3 and 4 read thus:

“3. Control in rearing of dogs and pigs.-(1) A Village Panchayat may decide by resolution that no person shall, from the date as may be specified, rear or keep dogs or pigs in the Village Panchayat area without a licence of the Village Panchayat and not in accordance with the conditions of the licence.
(2) The Secretary shall publish copy of the decision of the Village Panchayat under sub-rule (1) in the office of the Village Panchayat, notice boards of the Panchayats of that Village Panchayat area and in other public places and bring the decision of the Panchayat to the notice of the public by a pamphlet.
(3) The decision of the Village Panchayat shall be intimated in the next meeting of the Gramasabhas.

4. Licence.- (1) If any Village Panchayat takes a decision under Rule 3, then, every person possessing or having control of any dog and or pig shall, before the date specified in the decision, submit an application to the Secretary showing the details such as the age, colour and breed of the animal together, with a fee of rupees ten for licence from the Village Panchayat to rear or keep in possession each such animal.
(2) If a dog or a pig comes into the possession of a person



in any way, after the date specified in the decision of the Panchayat, he shall file an application for licence regarding such dog or pig under sub-rule (1) within one month.

(3) The applicant, shall along with an application under sub-rule (1) or sub-rule (2), produce a certificate obtained from a veterinary surgeon certifying that the dog has been inoculated against rabies.

(4) The Secretary, shall along with the licence, issue a sealed metal token as an indication thereof and the owner shall keep it tied in the neck of the animal.

(5) The owner shall rear the dog or pig for which the licence has been issued in his premises itself and shall not allow it to stray and provisions shall be made in the licence accordingly.

(6) The period of a licence shall be till the end of the respective financial year and the licence shall be got renewed for the succeeding financial year before the expiry of that period by submitting application together with a fee of rupee ten.

(7) The Secretary shall keep a register containing the details regarding the issue and renewal of the licence.”

Rule 5 provides for a penalty for allowing a dog/pig to stray, or for rearing it without obtaining a licence or in violation of any of the conditions.

14. Under the Animal Birth Control (Dogs) Rules, 2001 ("the Birth Control Rules", for short), framed under Section 38 of the Prevention of Cruelty to Animals Act, 1960, dogs are categorised as (i) pet dogs and (ii) street dogs. As per Rule 3, street dogs shall be sterilized and immunized with the participation of Animal Welfare Organisations, private individuals and the local authority. Rule 4 provides that the local authority shall constitute a Monitoring Committee consisting of the various



persons mentioned therein. The above Rule further provides that the Commissioner/Chief of the local authority shall be the ex-officio Chairman of the Committee.

15. As per Rule 5, the Monitoring Committee constituted under Rule 4 shall be responsible for the planning and management of the dog control programme. Its duties under the Rule, inter alia, include creating public awareness and soliciting co-operation and funding. Rule 5(e) and (f) provide as follows:

“5. Functions of the Committee : The committee constituted under rule 4 shall be responsible for planning and management of dog control programme in accordance with these rules. The committee may:

xxx xxx xxxxx

(e) get a survey done of the number of street dogs by an independent agency.

(f) take such steps for monitoring the dog bite cases to ascertain the reasons of dog bite, the area where it took place and whether it was from a stray or a pet dog.”

Rule 6 and the relevant part of Rule 7 read as follows:

"6. Obligations of the local authority : (1) The local authority shall provide for (a) establishment of a sufficient number of dogs pounds including animal kennels/shelters which may be managed by animal welfare organizations; (b) requisite number of dog vans with ramps for the capture and transportation of street dogs; (c) one driver and two trained dog catchers to be provided for each dog van; (d) an ambulance cum clinical van to be provided as mobile center for sterilisation and immunization; (e) incinerators to be installed by the local



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authority for disposal of carcasses.

(f) periodic repair of shelter or pound.

(2) If the Municipal Corporation or the local authority thinks it expedient to control street dog population, it shall be incumbent upon them to sterilize and immunize street Dogs with the participation of animal welfare organizations, private individuals and the local authority.

(3) The animal welfare organizations shall be reimbursed the expenses of sterilization/ immunization at a rate to be fixed by the Committee on fortnightly basis based on the number of sterilization/immunization done.

7.Capturing/sterilization/immunization/release:

(1) Capturing of dogs shall be based on:

(a) Specific complaints (for which the local authority in consultation with the Monitoring Committee shall set up a dog control cell to receive complaints about dog nuisance, dog bites and information about rabid dogs) and

(b)General:

(i) On receipt of specific complaint about nuisance or dog bite the same shall be attended on priority basis, irrespective of the area from which the complaint comes. On receipt of such complaint the details such as name of the complainant, his complete address, date and time of complaint, nature of complaint etc. shall be recorded in a register to be maintained for permanent record.

(ii) Capturing for general purpose will be on such dates and time to be specified by the Committee.

xx xx xx

(3) On receipt of specific complaint or for capturing dogs in normal course the dog squad will visit the concerned area, capture the dogs identified by the complaint in case of complaint oriented capturing and other dogs in case of general capturing. All the dogs caught will be tagged for identification purposes and to ensure that the dogs are released in the same area after sterilization and vaccination. Only stipulated number of dogs, according to the Animal Birth Control Program target, shall be caught by the van. A record of dogs captured shall be maintained in a register, mentioning therein the name of the area/locality, date and time of capture, names of persons in the dogs squad on that particular day and details about dogs captured such as number of male dogs, number of female dogs, number of puppies etc.”

Rule 9 further provides that incurably ill and mortally wounded



dogs, as diagnosed by a veterinarian appointed by the Monitoring Committee, shall be euthanised in a humane manner as provided in the Rule.

16. Rule 13 contains an important provision by which overriding effect is given to the provisions contained in the Rules over the provisions of any Act, rule, regulation or bye-law made under any law for the time being in force by the State or the local authority, if it contains a provision more irksome to animals than those contained in the Birth Control Rules. It reads thus:

“13. Application of rules where local bye-laws etc., exist - If there is in force in any area to which these rules extend, any Act , rule, regulation or bye-law made under any law for the time being in force by the State or the Local Authority in respect of any of the matters for which provision is made in these rules, such rule, regulation or bye-law shall to the extent to which (a) it contains provisions less irksome to the animal than those contained in these rules, shall prevail; (b) it contains provisions more irksome to the animal than those contained in these rules, be of no effect.”

17. In *M.R. Ajayan v. State of Kerala and Others* [2015 (4) KLT 818], a Division Bench of this Court held that the provisions under the Act or the Rules which empower the seizure and destruction of stray dogs by any means or method are more irksome to the dogs and, therefore, stand superseded by the provisions of



the Birth Control Rules. It was further held that the powers exercisable by the local authorities under the Municipal/Panchayat laws stood overridden with regard to the killing of stray dogs and that any such action by the local authorities has to be undertaken only in accordance with the provisions of the Prevention of Cruelty to Animals Act, 1960 and the Birth Control Rules. Thus, the local authorities have no discretionary power to destroy or seize stray dogs except in accordance with the provisions of the Prevention of Cruelty to Animals Act, 1960 and the Birth Control Rules, it was held.

18. A survey of the above provisions, and in the background of the aforesaid decision, it is clear that every Village Panchayat has a mandatory function to issue licences to domestic dogs and to control stray dogs, of course, in accordance with the provisions contained in the Birth Control Rules and the Prevention of Cruelty to Animals Act, 1960. Even though Rule 13 of the Birth Control Rules gives an overriding effect to the provisions of the said Rules over the Municipal/Panchayat laws, the statutory duty cast upon the local authority by virtue of those provisions is neither nullified nor taken away. However, such duty is liable to be discharged only in the manner provided by the Birth Control



Rules. The local authority cannot shirk its statutory responsibility by using the provisions of the Birth Control Rules as a shield; the only caveat is that the duty vested in it has to be exercised in the manner provided under the said Rules.

19. As noted above, Rule 6(2) of the Dog Rules empowers the Village Panchayats to employ specially trained persons to seize and destroy stray dogs and to pay them remuneration at the rate fixed by the Government. Similarly, the Village Panchayat is under a duty to ensure that only licensed pet dogs are reared within its area. Rule 6 of the Birth Control Rules casts a statutory duty upon the local authority to establish a sufficient number of dog pounds, including animal kennels/shelters, and to provide the requisite infrastructure and personnel for capturing street dogs. Sub-rule (2) of Rule 6 of Birth Control Rules assumes much significance in this context. It mandates that, where the Municipal Corporation or the local authority considers it expedient to control the street dog population, it shall be incumbent upon it to sterilize and immunize street dogs with the participation of Animal Welfare Organisations, private individuals and the local authority. The local authority is thus bound to exercise the above powers, irrespective of any specific complaints



in that regard, if it finds that such an action is expedient.

20. Rule 4 provides that it shall be the duty of the local authority to constitute a Monitoring Committee for the implementation of the provisions of the Birth Control Rules. The Monitoring Committee is entrusted with the responsibility of causing a survey of the street dog population to be conducted through an independent agency and of taking appropriate steps to monitor dog bite incidents so as to ascertain the reasons for such incidents, the places where they occurred and other relevant particulars. It is equally the function of the Committee to create public awareness and to solicit public co-operation and funding. Under Rule 3, the local authority, with the participation of Animal Welfare Organisations and private individuals, is also under an obligation to sterilize and immunize street dogs.

21. Thus, while the Birth Control Rules regulate the manner in which stray dogs are to be dealt with, they considerably enlarge the statutory obligations of the local authority in relation to the prevention and control of stray dogs within its jurisdiction. The local authority cannot destroy stray dogs except in the manner prescribed by the Birth Control Rules. Its statutory



obligation to sterilize street dogs remains mandatory. It is also its duty to secure the participation of Animal Welfare Organisations and private individuals in the implementation of the programme. Therefore, it cannot be contended that the local authority is absolved of its statutory responsibility merely because other agencies are also required to participate in the exercise.

22. In the present case, the Panchayat has no case that it had constituted a Monitoring Committee, which has to create public awareness as mandated under the Birth Control Rules, or that it had carried out the process of sterilization of street dogs at any point of time after the Birth Control Rules came into force. They do not have a case that they had carried out any assessment to determine whether such measures were required within its jurisdiction, notwithstanding the statutory obligation imposed upon it under Rule 6(2) of the Birth Control Rules. It is also not pleaded that the defendant discharged its statutory functions under Rule 6 of the Birth Control Rules, including establishment of dog pounds. Unless the local authority has first discharged these essential statutory functions, it cannot seek refuge under Rule 7 of the Birth Control Rules by contending that the capture



or sterilization of street dogs could be undertaken only upon receipt of specific complaints. As already noticed, the very object of constituting a Monitoring Committee under Rule 5 is to create public awareness, solicit public co-operation, conduct surveys regarding the street dog population and monitor dog bite incidents.

23. The Act as well as the Rules referred to above confer ample powers upon the local authority and simultaneously impose corresponding duties in relation to the licensing of domestic dogs, preventing straying of such dogs, sterilization of street dogs and generally to control and prevent stray dogs within its jurisdiction. The Birth Control Rules specifically require the local authority to constitute a Monitoring Committee and to discharge its functions through the Commissioner or the Chief Executive of the local authority as its ex-officio Chairman. In such circumstances, there can be little justification for the failure of the local authority to sterilize street dogs, to establish sufficient number of dog pounds, animal kennels or shelters. Paucity of funds cannot constitute a valid defence for the failure of a statutory authority to discharge its mandatory functions. As noticed earlier, Section 166(1) of the Act makes it



obligatory for every Village Panchayat to meet the requirements of its area in respect of the matters enumerated in the Third Schedule. One of the mandatory functions so enumerated is the licensing of domestic dogs and the destruction of stray dogs, subject, of course, in the manner prescribed under the Birth Control Rules and the Prevention of Cruelty to Animals Act, 1960.

24. It was argued that, even where a statute creates a duty, if it does not expressly provide a consequence for its breach, a person who suffers injury as a result of such breach cannot maintain an action in tort, though he may have recourse to a public law remedy. According to the learned counsel, no common law action for unliquidated damages would lie merely for the breach of such statutory duty. We are unable to accept the contention. When the legislature has conferred extensive powers/duties upon the local authority to regulate and control stray dogs and has framed elaborate Rules prescribing the manner in which those powers/duties are to be exercised, the legislative purpose is unmistakable, namely, to protect users of the streets from the menace of stray dogs while ensuring humane treatment to the animals. Every member of the public is entitled to use the public streets without being exposed to the foreseeable danger of stray



dog attacks. The local authority, in which such streets vest and upon which the statutory obligation to control stray dogs is imposed, owes a corresponding duty to those persons. The provisions contained in the various statutes and subordinate legislations are intended to achieve the aforesaid objective, while ensuring humane treatment of street dogs.

25. It is also relevant to note the observations of the Hon'ble Apex Court in *Rajkot Municipal Corpn. v. Manjulben Jayantilal Nakum* [(1997) 9 SCC 552], in this regard. It is held;

“The breach of duty created by a statute, if it results in damage to an individual prima facie, is tort for which the action for damages will lie in the suit. One would often take the Act, as a whole, to find out the object of the law and to find out whether one has right and remedy provided for breach of duty. It would, therefore, be of necessity in every case to find the intention of legislature in creating duty and the resultant consequences suffered from the action or omission thereof, which are required to be considered.”

26. The law of tort is an evolving branch of law whose frontiers are not barricaded. The existence of a duty remains the primary foundation of tortious liability. In a modern constitutional democracy, the obligation of a local authority to discharge its mandatory statutory functions for the protection of the inhabitants within its jurisdiction, is of fundamental



importance. Many of the operational and welfare-oriented functions related to public-health, traditionally discharged by the State, have pursuant to the constitutional scheme of democratic decentralisation been entrusted to local self-government institutions. Where a statutory authority is entrusted with a duty to take reasonable care for the protection of the public, it cannot escape liability for damage which is the reasonably foreseeable consequence of its failure to discharge that duty.

27. In Chapter 10, under the heading "Statutory Duties", *Salmond and Heuston on the Law of Torts* (20th Edition, Sweet & Maxwell) states as follows:

"When a duty is created by statute, the breach of which is an actionable tort, it is a question of construction whether the liability is absolute, or depends on wrongful intent or negligence on the part of the defendant. In other words, when a statute provides that a certain thing must be done, it is a question of interpretation whether this means that the thing is to be done in all events, or merely that the person upon whom the duties imposed is to use due care and diligence in the endeavour to perform it, and that if he fails to perform it through no fault of his he shall be free from liability.Some statutory duties are absolute in the sense that the obligation, whatever its meaning and effect, must be actually fulfilled and not merely that the person subject to the duty must do his best to fulfil it.....The plaintiff must prove (i) breach of duty, and (ii) that such breach caused the injury complained of. The ordinary standard of proof in civil actions applies: the plaintiff must make it appear that at least on a balance of probabilities the breach of duty caused or materially contributed to his injury."



In **X (minors) v. Bedfordshire County Council** (1995) 3 All ER 353 (HL), the House of Lords has emphasised the need for the plaintiff to prove causation, but it has also said that this must not impose too severe a burden on him, especially if the fault complained of is one of omission rather than commission. The principles as to when mere breach of a statutory duty causing damage will give rise to a private law claim for damages were restated by the House of Lords as follows:

“The basic proposition is that in the ordinary case a breach of statutory duty does not, by itself, give rise to any private law cause of action. However, a private law cause of action will rise if it can be shown, as a matter of construction of the statute, that the statutory duty was imposed for the protection of a limited class of the public and that Parliament intended to confer on members of that class a private right of action for breach of the duty. There is no general rule by reference to which it can be decided whether a statute does create such a right of action but there are a number of indications. If the statute provides no other remedy for its breach and the parliamentary intention to protect a limited class is shown that indicates that there may be a private right of action. Since otherwise there is no method of securing the protection the statute was intended to confer. If the statute does provide some other means of enforcing the duty that will normally indicate that the statutory right was intended to be enforceable by those means and not by private right of action.- However, the mere existence of some other statutory remedy is not necessarily decisive. It is still possible to show that on the true construction of the statute the protected class was intended by Parliament to have a private remedy. Thus the specific duties imposed on employers in relation to factory premises are enforceable by an action for damages,



notwithstanding the imposition by the statutes of criminal penalties for any breach.- The cases where a private right of action for breach of statutory duty have been held to arise all cases in which the statutory duty has been very limited and specific as opposed to general administrative functions imposed on public bodies and involving the exercise of administrative directions.”

In *Rajkot Municipal Corpn. v. Manjulben Jayantilal Nakum* (supra), the Apex Court, at paragraphs 58 and 62, recognised that persons using public streets constitute a class to whom the local authority owes a legal duty of care, the breach of which would render it liable in tort.

28. In the text book on *Tort* by Winfield & Jolowicz (Eighteenth Edition, Sweet & Maxwell, page No.392), it is observed as follows:

“The court will more readily imply a civil action where the damage inflicted by the breach is physical harm, rather than economic loss, reflecting the common law’s more restrictive approach to the latter.”

Winfield & Jolowics further commended as follows quoting a passage of Lord Denning M.R.:

“The law on inferring civil actions from statutory duties is not very satisfactory and Lord Denning M.R. commented with perhaps a little pardonable exaggeration that the legislature:

“[H]as left the courts with a guess-work puzzle. The



dividing line between the pro-cases and the contra-cases is so blurred and so ill-defined that you might as well toss a coin to decide it”.

In the recent judgment in *In Re: “City Hounded By Strays, Kids Pay Price”* (2026 INSC 506), the Hon'ble Supreme Court affirmed that local authorities would incur tortious liability for injuries caused by street dog attacks [paragraph 111(D)].

29. In the light of our evaluation of all the relevant statutory provisions, we are of the considered view that a breach of the statutory duty by the defendant Panchayat, resulting in physical injury to the plaintiff, is actionable in tort, particularly where the statute provides no other remedy and its underlying policy is the protection of persons using the public streets. Further, the present action is not one founded merely upon breach of a statutory duty that results in injury. In the given facts and circumstances, the breach of the statutory duty constitutes evidence of the breach of duty of care as well.

30. An action in the tort is founded upon a breach of a duty of care, whether arising from a positive act or an omission. Broadly stated, its essential ingredients are: (i) the existence of a duty of care; (ii) that the duty is owed to the plaintiff or



to a class of persons of which the plaintiff is a member (the pedestrians or persons using the public streets can be considered a class of persons in the given case) (iii) breach of that duty by the defendant and (iv) damage suffered by the plaintiff is a reasonably foreseeable and proximate consequence of the breach.

31. In *Jay Laxmi Salt Works (P) Ltd. v. State of Gujarat* [(1994) 4 SCC 1], the Apex Court considered whether the plaintiffs were entitled to maintain a suit against the State for damages on account of the loss suffered by them consequent upon the construction of a dam. The Apex Court held that, in a welfare State, the construction of a dam for the benefit of the community is an essential governmental function and that the use of land or the accumulation of water for the benefit of society cannot be regarded as a non-natural use. At the same time, it is held that this would not absolve the State of its duty to be accountable to its citizens for acts or omissions which are actionable in law and which result in damage, loss or injury. Therefore, the State or the local authority cannot claim exemption from its tortious liability for the reasonably foreseeable consequences of its acts, even if they are lawful.



32. In ***Corporation of Calicut v. Veluthedath Bindu*** (supra) this Court held that an isolated incident of stray dog bite, particularly in the absence of prior complaints, cannot amount to a failure on the part of the local authority to discharge its statutory duty. For arriving at the said conclusion, the learned Judge referred to the law laid down in ***Rajkot Municipal Corpn. v. Manjulben Jayantilal Nakum*** (supra), wherein it was held that the duty of care imposed upon a local authority by law cannot extend beyond what the statute reasonably expects the authority to perform. The local authority had no duty to regularly maintain the trees standing by the side of the roads, unlike its duty to remove hanging branches, it was held. It was further held that where the defendant had no knowledge of a discoverable defect or danger, and the damage was caused by *a sudden accident*, namely the sudden fall of a tree on the passerby, it could not be held that the defendant had knowledge of the danger and omitted to discharge its duty of care to prevent the resulting harm, as the causation is too remote. Regarding the situation with which we are concerned of, the statutory provisions referred to above expressly declare that it is the mandatory duty of the Panchayat to control stray dogs, and it is established by the plaintiff that the Panchayat failed to take any positive steps prescribed by law. From the facts



proved during the trial, it is also evident that the plaintiff has succeeded in establishing the element of causation, namely, the nexus between his injury and the negligence of the local authority in discharging its statutory duty. It cannot be said that the local authority was unaware of the foreseeable consequences of the breach of its statutory duty or that imposing liability upon it is something beyond what the statute expects the local authority to perform. Thus, we respectfully disagree with the observations in *Corporation of Calicut v. Veluthedath Bindu* (supra). In *Porathissery Grama Panchayath v. Anthony and Another* (supra) this Court held that the Panchayat is under a statutory duty to take appropriate measures to prevent the danger of stray dog attacks within its territorial limits and that, upon its failure to discharge such duty, it would be liable to compensate the victim for the damage suffered. Based on the discussions made above, we concur with the view adopted in *Porathissery Grama Panchayath v. Anthony and Another*. The reference and the substantial questions of law (C) to (E) are answered as above.

33. In the present case, both the trial court and the first appellate court have concurrently found that the Panchayat failed to discharge its statutory obligations. There is neither any



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pleading nor any evidence to establish that the Panchayat had discharged any of the essential duties cast upon it under the Act and the Birth Control Rules. The dog bite incident which gave rise to the present claim is a direct and reasonably foreseeable consequence of the Panchayat's failure to discharge its statutory obligations. In such circumstances, the defendant cannot escape its liability to compensate the plaintiff. The compensation awarded, namely ₹10,000/-, is by no means excessive; on the contrary, it can only be regarded as a modest amount for the injuries and suffering sustained by the plaintiff. It therefore calls for no interference. Substantial questions of law (F) and (G) are answered accordingly.

34. The next question that arises for consideration is whether the suit is barred by limitation in view of Section 249(1)(b) of the Act. Section 249(1)(b) reads thus:

“249. Institution of suits against authorities of Panchayats, their officers, etc.- (1) No suit, or other civil proceedings against a Panchayat or against the President, the Vice-President or any other member, or employee thereof or against any other person acting under the direction of the Panchayat or any member or employee thereof for anything done or purporting to be done under this Act in its or his official capacity,-

xx xx xx xx

(b) shall be instituted, unless it is a suit for the recovery of immovable property or for the declaration of



title thereto, otherwise than within six months next after the accrual of the alleged cause of action.”

The object of prescribing a shorter period of limitation is evidently to protect the Panchayat and its officials from the prolonged threat of litigation in respect of *acts performed by them in the discharge of their official functions under the Act*. When the officials of the Panchayat act in the exercise of the powers conferred by the Act, it is in the larger public interest that they are not kept under the perpetual apprehension of litigation. It seems that, it is with this object Section 249(1) (b) curtails the ordinary period of limitation for instituting a suit or other civil proceeding against the Panchayat or its officials and mandates that such proceedings shall be instituted within six months from the date on which the cause of action accrues.

35. However, the provision is carefully worded so as to extend protection only in respect of **"anything done or purporting to be done"** by the Panchayat or its officials. In other words, Section 249(1)(b) restricts the period of limitation only in relation to suits or civil proceedings arising out of **"anything done or purporting to be done under this Act"** by the Panchayat or



its officials in their official capacity. In its plain language, the provision does not curtail the period of limitation for a suit founded on the consequences of the omission or failure of the Panchayat or its officials to discharge a mandatory statutory duty imposed upon them under the Act.

36. This Court had occasion to consider the scope of Section 392(3) of the Kerala Municipalities Act, 1960, which is similar to Section 249 of the Act, in *Municipal Commissioner v. David J. Bhanu* [1988 (1) KLT 675]. Though the Court did not conclusively decide the issue, it observed that the expression "action" occurring in the said provision may not, in its context, include an omission.

37. It is true that Section 3(2) of the General Clauses Act, 1897 defines the expression "act", in relation to a civil wrong, so as to include illegal omissions (corresponding to Section 2 of the Travancore-Cochin Interpretation and General Clauses Act, 1125). However, Section 3 itself makes it clear that the definitions contained therein apply only where there is nothing repugnant in the subject or context. Having regard to the object and purpose of Section 249, we are of the considered view that the



statutory protection thereunder is intended to extend only to acts done, or purported to have been done, in the discharge of official functions, and not to a cause of action such as the present one, where the tortious liability arises from the consequence of an omission or failure to discharge a mandatory statutory duty.

38. The next question is whether the suit is barred by Article 72 of the Limitation Act, 1963. Article 72 reads as follows:

72. For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in the territories to which this Act extends.

One year

When the act or omission takes place.

A close reading of Article 72 shows that it applies to suits for compensation arising out of an act or omission done in pursuance of an enactment or law in force. In other words, where compensation is claimed in respect of an act or omission committed by the defendant in the purported discharge of a statutory duty, the prescribed period of limitation is one year and not the ordinary period of three years. Article 72 is thus intended to



govern actions seeking compensation in respect of bona fide acts or omissions committed by public authorities or public officials while acting in pursuance of their statutory powers or duties.

39. On the contrary, where a suit for damages is filed *consequent to an incident* that occurred due to the failure of the officials or the authority to discharge their statutory duty or due to their wrongful act, this Article is inapplicable. In such cases, the cause of action for the suit arises only when the resultant event occurs and not when the omission (or act) takes place. In short, to attract Article 72, the act or omission must itself constitute a tort giving rise to the cause of action for the suit.

40. Article 2 of the Limitation Act, 1908 is substantially similar to Article 72 of the Limitation Act, 1963. Under Article 2 of the 1908 Act, the period of limitation for a suit for compensation for doing or omitting to do an act alleged to have been done in pursuance of an enactment was ninety days from the date on which the act or omission took place. While interpreting the scope of Article 2, the Apex Court, in ***State of Punjab v. Modern Cultivators, Ladwa*** (AIR 1965 SC 17) upheld the views of



Lahore High Court, as follows:

“28. This subject was elaborately discussed in Mohammad Sadaat Ali Khan v. Administrator Corporation of City of Lahore [ILR 1945 Lah 523 IB] where all rulings on the subject were noticed. Mahajan, J. (as he then was) pointed out that “the act or omission must be those which are honestly believed to be justified by a statute”. The same opinion was expressed by Courtney Terrell, C.J. in **Secretary of State v. Lodna Colliery Co. Ltd.** [ILR 15 Pat 510] in these words:

‘The object of the article is the protection of public officials, who, while bona fide purporting to act in the exercise of a statutory power, have exceeded that power and have committed a tortious act; it resembles in this respect the English Public Authorities Protection Act. If the act complained of is within the terms of the statute, no protection is needed, for the plaintiff has suffered no legal wrong. The protection is needed when an actionable wrong has been committed and to secure the protection there must be in the first place a bona fide belief by the official that the act complained of was justified by the statute; secondly, the act must have been performed under colour of a statutory duty, and thirdly, the act must be in itself a tort in order to give rise to the cause of action. It is against such actions for tort that the statute gives protection.”

(Emphasis supplied)

41. It is relevant to note that the Limitation Act, 1908 contained a specific Article prescribing the period of limitation for suits claiming compensation in tort. Article 36 provided that a suit for compensation for “malfeasance, misfeasance or



nonfeasance independent of contract” should be instituted within two years from the date on which the malfeasance, misfeasance or nonfeasance took place. However, while enacting the Limitation Act, 1963, Parliament omitted this general provision relating to suits in tort, pursuant to the recommendations of the Law Commission. In its Third Report (1956) on the Limitation Act, 1908, the Law Commission recommended in paragraph 119 as follows:

“What has been stated in paragraphs 64 and 69 above, applies equally to the Articles governing suits on tort. It will be found from the discussion which follows that all the Articles relating to suits on torts can be grouped together and brought under one head, providing a period of three years limitation from the date of the accrual of the cause of action. These Articles are: Articles 2, 19 to 29 and 32 to 42.”

Parliament, however, did not adopt the recommendation in its entirety while enacting the Limitation Act, 1963, although Article 36 was omitted. Consequently, the proposed general Article governing all suits arising out of contract and tort did not find a place in the Limitation Act, 1963. As a result, suits claiming compensation for malfeasance, misfeasance or nonfeasance not arising out of contract are now governed by Article 113, except where the Limitation Act, 1963 makes a specific provision to the contrary. [See *Jugal Kishore v. State of Himachal Pradesh and*



Others (AIR 1995 HP 8)]. Under Article 113, the period of limitation is three years from the date on which the right to sue accrues.

42. In *Jay Laxmi Salt Works (P) Ltd. v. State of Gujarat* (supra), the Apex Court considered the scope of Article 36 of the Limitation Act, 1908. As noticed earlier, the question that arose there was whether a suit for damages instituted by a landowner against the State, alleging tortious liability arising from its failure to take due care, whereby the plaintiff's land was damaged by flooding, was barred by limitation. The Apex Court held that the period of limitation did not commence from the date on which the alleged omission of the State occurred. It held that the limitation period commenced only from the date on which the cause of action actually accrued, since the plaintiff had no occasion to institute a suit for damages until the damage was sustained, even though the omission or failure to discharge the public duty might have occurred earlier. Accordingly, the Court applied Article 120 of the Limitation Act, 1908 (corresponding to Article 113 of the Limitation Act, 1963), instead of Article 36, holding that where the claim for damages arising out of the failure to discharge a public duty, the residuary Article, and not the Article dealing



with nonfeasance, would govern the period of limitation.

43. In the present case, the cause of action for the suit did not arise merely by reason of such omission. It accrued only when the consequential event, namely, the stray dog attack resulting in injuries to the plaintiff, occurred. The present suit having been instituted within three years from the date of accrual of the cause of action, namely, the date on which the plaintiff sustained injuries in the dog bite incident, is clearly within the period of limitation, as provided under Article 113. The substantial questions of law (A) and (B) are answered as above.

44. The defendant Panchayat is liable to pay compensation as decreed by the trial court. Therefore, the judgment and decree under challenge is only to be upheld.

45. Before parting with the case, we deem it appropriate to place on record our appreciation for the able and painstaking assistance rendered by Sri. P.B. Ajoy, learned counsel appearing for the defendant-Panchayat. We also record our appreciation for the valuable assistance rendered by Sri. A.C. Venugopal, learned counsel appearing for the plaintiff. We must also record our appreciation for the valuable assistance rendered by



Sri. P.G. Jayasankar, learned *amicus curiae*, whose thorough research greatly assisted the Court in the disposal of the case.

In the result, the appeal is dismissed, upholding the impugned judgment.

Sd/-

SATHISH NINAN

JUDGE

Sd/-

P. KRISHNA KUMAR

JUDGE