



2026:KER:76784

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MRS. JUSTICE PREETA A.K.

WEDNESDAY, THE 7TH DAY OF OCTOBER 2026/15TH ASWINA, 1948

W.A.NO.1423 OF 2026

AGAINST THE JUDGMENT DATED 22.06.2026 IN W.P(C).NO.6851 OF 2026
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS 2 & 3:

- 1 GOSHREE ISLANDS DEVELOPMENT AUTHORITY (GIDA)
REPRESENTED BY ITS SECRETARY, PARK AVENUE, KOCHI,
KERALA, PIN - 682011
- 2 THE SECRETARY
GOSHREE ISLANDS DEVELOPMENT AUTHORITY (GIDA),
PARK AVENUE, KOCHI, KERALA, PIN - 682011

BY ADV.SRI.GEORGE POONTHOTTAM (SR.)
BY ADV.SRI.VARGHESE K.PAUL

RESPONDENT(S)/PETITIONERS & RESPONDENTS 1, 4 TO 10:

- 1 TRITVAM APARTMENT OWNERS ASSOCIATION (TAOA)
(REG.NO.EKM/TC/263/2024) GOSHREE-PANCHALAM LINK ROAD,
MARINE DRIVE, KOCHI, REPRESENTED BY ITS SECRETARY,
ASHRAF, PIN - 682018
- 2 KISHORE VISWANATHAN
AGED 64 YEARS
THE PRESIDENT OF TRITVAM APARTMENT OWNERS ASSOCIATION
(TAOA) (REG.NO.EKM/TC/263/2024) GOSHREE-PANCHALAM LINK
ROAD, MARINE DRIVE, KOCHI, PIN - 682018
- 3 THE DISTRICT COLLECTOR
ERNAKULAM DISTRICT, CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN - 682030



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- 4 KOCHI MUNICIPAL CORPORATION
REPRESENTED BY ITS SECRETARY, PARK AVENUE, KOCHI,
KERALA, PIN - 682011
- 5 THE SECRETARY
KOCHI MUNICIPAL CORPORATION PARK AVENUE, KOCHI,
KERALA, PIN - 682011
- 6 THE MAYOR
KOCHI MUNICIPAL CORPORATION, PARK AVENUE, KOCHI,
KERALA, PIN - 682011
- 7 COCHIN SMART MISSION LIMITED (CSML)
REPRESENTED BY ITS MANAGING DIRECTOR, 4TH FLOOR,
JAWAHARLAL NEHRU STADIUM, METRO STATION, KALOOR,
KOCHI, PIN - 682017
- 8 THE MANAGING DIRECTOR
COCHIN SMART MISSION LIMITED (CSML) 4TH FLOOR,
JAWAHARLAL NEHRU STADIUM, METRO STATION, KALOOR,
KOCHI, PIN - 682017
- 9 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001.
- 0 M/S.C.JACOB & COMPANY
29/30A, S.A. ROAD, JANATHA, VYTTLA, EMAKULAM,
COCHIN-682019, REPRESENTED BY ITS DIRECTOR,
DR. J. JACOB, AGED 52 YEARS, S/O.LATE SRI.JACOB,
RESIDING AT 29/30A, S.A, ROAD, JANATHA, VYTTLA,
COCHIN, PIN - 682 019.

BY ADV.SRI.S.MUHAMMED HANEEFF
BY SMT.R.REMA, SPL. GOVT. PLEADER TO A.G.
BY SRI.ANOOP V. NAIR, STANDING COUNSEL KOCHI
MUNICIPAL CORPORATION
BY SRI.K.ANAND, ADDITIONAL STANDING COUNSEL, KOCHI
MUNICIPAL CORPORATION
BY SMT.M.U.VIJAYALAKSHMI, STANDING COUNSEL, COCHIN

CNR : KLHC010545952026

W.A.No.1423 & 1507/2026

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SMART MISSION LIMITED
BY SRI.BRIJESH MOHAN, STANDING COUNSEL, COCHIN SMART
MISSION LIMITED
BY ADV.SRI.NAVEEN T.
BY ADV.SRI.M.H.ASIF ALI
BY ADV.SRI.ASHIK ALI M.H.
BY ADV.SRI.SURJITH T. M.
BY ADV.SMT.VISMAYA JAYARAJ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 29.09.2026
ALONG WITH W.A.NO.1507 OF 2026, THE COURT ON 07.10.2026
DELIVERED THE FOLLOWING:

CNR : KLHC010545952026

W.A.No.1423 & 1507/2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MRS. JUSTICE PREETA A.K.

WEDNESDAY, THE 7TH DAY OF OCTOBER 2026/15TH ASWINA, 1948

W.A.NO.1507 OF 2026

AGAINST THE JUDGMENT DATED 22.06.2026 IN W.P(C) .NO.6851 OF 2026
OF HIGH COURT OF KERALA

APPELLANT(S)/ADDL. 10TH RESPONDENT:

M/S.C.JACOB & COMPANY
29/30A, S.A. ROAD, JANATHA, VYTTILA, ERNAKULAM,
COCHIN, REPRESENTED BY ITS DIRECTOR, DR.J.JACOB,
AGED 52 YEARS, S/O.LATE SRI.JACOB, RESIDING AT 29/30A,
S.A.ROAD, JANATHA, VYTTILA, COCHIN, PIN - 682019

BY ADV.SRI.NAVEEN.T
BY ADV.KUM.CHITHRA CHANDRASEKHARAN
BY ADV.SRI.V.S.ABHISHEK
BY ADV.SRI.BIJI A MANIKOTH
BY ADV.SRI.SHIBU JOSEPH KOTTAYIL

RESPONDENT(S)/PETITIONERS & RESPONDENTS 1 TO 9:

- 1 TRITVAM APARTMENT OWNERS ASSOCIATION (TAOA)
(REG.NO.EKM/TC/263/2024), GOSHREE-PACHALAM LINK ROAD,
MARINE DRIVE, KOCHI, REPRESENTED BY ITS SECRETARY,
ASHRAF, PIN - 682018
- 2 KISHORE VISWANATHAN
AGED 64 YEARS
THE PRESIDENT OF TRITVAM APARTMENT OWNERS ASSOCIATION



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(TAOA), (REG.NO.EKM/TC/263/2024), GOSHREE-PACHALAM
LINK ROAD, MARINE DRIVE, KOCHI, PIN - 682018

- 3 THE DISTRICT COLLECTOR
ERNAKULAM DISTRICT, CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN - 682030
- 4 GOSHREE ISLANDS DEVELOPMENT AUTHORITY (GIDA)
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KERALA, PIN - 682011
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ITS MANAGING DIRECTOR, 4TH FLOOR, JAWAHARLAL NEHRU
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THIRUVANANTHAPURAM, PIN - 695001

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W.A.No.1423 & 1507/2026

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BY ADV.SRI.S.MUHAMMED HANEEFF
BY SMT.R.REMA, SPL. GOVT. PLEADER TO A.G.
BY ADV.SRI.GEORGE POONTHOTTAM (SR.)
BY ADV.SRI.VARGHESE K.PAUL, STANDING COUNSEL, GOSHREE
ISLANDS DEVELOPMENT AUTHORITY
BY SRI.ANOOP V. NAIR, STANDING COUNSEL KOCHI MUNICIPAL
CORPORATION
BY SRI.K.ANAND, ADDITIONAL STANDING COUNSEL, KOCHI
MUNICIPAL CORPORATION
BY SMT.M.U.VIJAYALAKSHMI, STANDING COUNSEL, COCHIN
SMART MISSION LIMITED
BY SRI.BRIJESH MOHAN, STANDING COUNSEL, COCHIN SMART
MISSION LIMITED
BY ADV.SRI.M.H.ASIF ALI
BY ADV.SRI.ASHIK ALI M.H.
BY ADV.SMT.VISMAYA JAYARAJ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 29.09.2026
ALONG WITH W.A.NO.1423 OF 2026, THE COURT ON 07.10.2026
DELIVERED THE FOLLOWING:



"C.R."

J U D G M E N T

Dr. A.K. Jayasankaran Nambiar, J.

As both these Writ Appeals impugn the judgment dated 22.06.2026 of a learned Single Judge in W.P.(C).No.6851 of 2026, they are taken up together for consideration and disposed by this common judgment.

2. W.A.No.1423 of 2026 is preferred by the Goshree Islands Development Authority [GIDA] and its Secretary, whereas W.A.No.1507 of 2026 is preferred by M/s. C. Jacob and Company, the 10th respondent in the writ petition, who was the successful tenderer for the contract awarded by GIDA for the upkeep of the Queens walkway, second walkway and bicycle track-cum-walkway along the side of the Goshree-Chathiyath road.

3. The brief facts necessary for disposal of these Writ Appeals are as follows:

The 1st respondent/writ petitioner is an Association of apartment owners of an apartment complex named "Tritvam Apartment" that is



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located along the side of the Goshree-Chathiyath road at the tip of Marine Drive, Kochi. Adjacent to the said apartment complex is the “Queens walkway”, a public space that was developed and maintained by the GIDA. The GIDA had, in 2025, floated a tender proceedings inviting expression of interest for the upkeep of the Queens way, second walkway and bicycle track-cum-walkway along the side of the Goshree-Chathiyath road. The appellant in W.A.No.1507 of 2026 participated in the tender process and was selected for the said work. It would appear that an amount of Rs.84,00,000/- was paid by the said appellant to GIDA in compliance with the tender conditions, and thereafter, the appellant also spent an amount in excess of Rs.50,00,000/- for the initial works including the installation of electric poles etc. While so, the writ petition was preferred by the Association of apartment owners of the Tritwam Apartments alleging that the construction, installation and operation of commercial kiosks, that were proposed to be set up by the GIDA, were to be on the walkway/footpath situated in front of their apartment complex. It was their case that their right to a safe and unobstructed pedestrian walkway was attempted to be intruded upon by the proposed construction of kiosks on the pedestrian footpath. It was also their case that the construction of commercial kiosks on the Queens walkway would create traffic congestion, health risks and overburden the civic infrastructure, and was therefore to be avoided. The writ



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petitioners also argued that GIDA lacked any statutory authority under the Kerala Town and Country Planning Act, 2016 to establish, permit or even facilitate any commercial kiosks on a walkway intended for public benefit.

4. In the counter affidavit filed on behalf of the respondents including GIDA, it was categorically stated that GIDA had the absolute right to utilise the said pathway for any activity. While pointing out that GIDA had a patta issued in their name in respect of an extent of 25 hectares of reclaimed land in Sy.No.843 of Ernakulam Village, on which, the apartment complex of the writ petitioners as well as the Goshree-Chathiyath road and adjacent walkway were situated, it was also averred that GIDA been authorized by specific Government Orders to develop the said area in accordance with the provisions of the Kerala Town and Country Planning Act. In particular, it was pointed out that GIDA had approved a special project for Queens walkway named as "GIDA Happiness Zone Project" to provide quality open spaces for the public and to transform the walkway by providing various facilities matching international standards including eateries, thereby improving the tourism potential of the city. It was clarified that Queens walkway is one of the most beautiful lakeside places in Kochi, and that the proposal was not to construct kiosks on the footpath, but on the deck space



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adjacent to the walkway. The walkway with a width of 6.5 meters was the widest in the city, and hence, it was decided to make the walkway a recreational area by placing kiosks thereon which were not in the nature of permanent constructions but more in the nature of modular portable structures that could be transported without demolition. The appellants therefore prayed for a dismissal of the writ petition.

5. The learned Single Judge, who considered the matter, proceeded to frame two issues, namely, (i) Whether GIDA has authority over the Goshree-Chathiyath road and the Queens walkway adjacent to it ? and (ii) Whether footpaths can be utilized for setting up commercial kiosks and whether GIDA has a right to construct kiosks on the Queens walkway at Kochi ? and proceeded to answer both the questions in the negative. While doing so, the learned Single Judge found that notwithstanding the patta issued to GIDA over the entire 25 hectares of reclaimed land, after the formation of the Goshree- Chathiyath road on the said land, the said road had to be seen as vested absolutely with the Kochi Corporation in terms of the Kerala Municipality Act, 1994. He reasoned that, after the coming into force of the Kerala Town and Country Planning Act, 2016, GIDA was reconstituted under Section 51 of the said Act, for the purposes of integrated development of islands situated in the northern side of Kochi and which formed part of the



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Ernakulam mainland. However, the powers and function of GIDA, which was an authority formed under the Kerala Town and Country Planning Act, 2016, was as specified in Section 56 of the said Act, which made the exercise of those powers subject to the provisions of the Kerala Municipality Act, 1994 and the Kerala Panchayat Raj Act, 1994. On the second issue framed by the learned Single Judge, he found, based on the judgments in **Kottamom (Kottiyar Mangalam) Sri.Dharmashastha Temple Advisory Committees v. State of Kerala and Others - [2019 KHC 861]**, **Sivaprasad v. State of Kerala and Others - [2020 (6) KHC 373]** and the recent decision of the Supreme Court in **Maniyar Illiyaz and Another v. P. Ayyappan and Others - [2026 INSC 647]** that in as much as the the right to life and liberty of a citizen includes the right to walk freely without any obstruction, footpaths could not be used for setting up commercial kiosks, and hence, the construction of commercial kiosks on the Queens walkway would have the effect of affecting the fundamental rights of pedestrians. The learned Judge also found that under the bye-laws formulated by the Kochi Corporation for street vending, all roads in the Ayyappankavu division were prohibited for vending, and inasmuch as Goshree- Chathiyath road fell in the said Division, it was not open to GIDA or the Corporation of Kochi to set up any kiosks or vending shops in the said area. The writ petition was therefore allowed with a



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direction to the appellants herein not to construct, install or operate any kiosks on the Queens walkway at Kochi.

6. In the appeal before us, the learned senior counsel Sri.George Poonthottam, instructed by Sri.Varghese K. Paul, the learned counsel appearing on behalf of the GIDA assailed the judgment of the learned Single Judge firstly with regard to its non-consideration of the issue of maintainability of the writ petition. He points out that a mere perusal of the reliefs prayed for in the writ petition would have unambiguously indicated that the writ petition was in the nature of a Public Interest Litigation, and by the actions of the learned Single Judge in traversing beyond the reliefs sought for in the writ petition and granting reliefs that were more appropriately suited to a Public Interest Litigation, the learned Single Judge transgressed his jurisdictional limits since the Public Interest Litigation roster was not assigned to him by the Hon'ble the Chief Justice, who is the master of the roster. The learned senior counsel also took us through the Government Orders by which, GIDA was constituted as a "Development Authority" under the extant Town and Country Planning Act as also the Government orders issued in connection with assignment of patta over 25 hectares of land in favour of GIDA, with an obligation to GIDA to develop the land in accordance with the Scheme approved by the Government. It is his case therefore



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that the land on which the apartment complex of the writ petitioners, and the Goshree-Chathiyath road and Queens walkway were situated, vested in the GIDA and not in the Kochi Corporation for the purposes of development of the land. He fortifies his submission by relying on the certificate issued by the Kochi Corporation, affirming that the said land and the Goshree-Chathiyath road together with the adjacent Queens walkway is not included in the asset register of the Kochi Corporation. It is his categoric submission, therefore, that the learned Single Judge erred in treating the road and walkway as vested in the Kochi Corporation and in finding that GIDA had absolutely no right over the said road and walkway for the purposes of carrying out its development activities thereon.

7. Per contra, it is the submission of Sri.S.Muhammed Haneeff, the learned counsel for the respondents/writ petitioners that there is an injunction suit that is filed by some of the apartment owners in the area, wherein, an interim order of prohibitory injunction has been passed by the Civil Court restraining the putting up of any construction on the Queens walkway. It is his further submission that as found by the learned Single Judge in the impugned judgment, GIDA has no authority whatsoever to undertake any development activities on the road and walkway in question, and hence, the judgment of the learned Single



Judge warrants no interference.

8. We have gone through the pleadings before us and also considered the rival submissions. In as much as the learned Single Judge has proceeded on the basis that GIDA has no authority over the Goshree-Chathiyath road and the Queens walkway adjacent thereto, we deem it apposite to trace the trajectory of events that led to GIDA obtaining a patta over the land on which the apartment complex of the writ petitioners and the Goshree-Chathiyath road and Queens walkway are situated.

9. Before the GIDA was constituted as an authority under the Town Planning Act, 1108 with effect from 18.05.1994, the islands on the western side of the Marine Drive Kochi mainland were isolated with no direct road access to the mainland. The State Government had for a long period not responded to the request of the islanders for connectivity to the mainland by citing scarcity of funds for construction of bridges connecting the islands to the mainland. Owing to protests that followed, the State Government decided to construct three bridges connecting the islands to the mainland under a self financing scheme. It was therefore that the State Government vide G.O. dated 27.07.2000 accorded administrative sanction to GIDA, that was constituted in the



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meanwhile, to implement the Vypeen Bridges Project that envisaged (i) reclamation of 25 hectares of land in Marine Drive; (ii) construction of a connecting road (spine road); (iii) construction of three bridges, namely, (a) Ernakulam-Bolghatty Bridge, (b) Bolghatty-Vallarpadom Bridge and (c) Vallarpadom-Vypeen Bridge and (iv) construction of a road network. The Project cost was estimated at Rs.84 crores which was to be raised by the GIDA itself. The construction of the work including reclamation of 25 hectares in the Marine Drive was entrusted to the Cochin Port Trust and GIDA had to accordingly pay Cochin Port Trust for the works including reclamation. The G.O. dated 23.12.2000 of the State Government [produced as Ext.R10(j)] reveals that GIDA was permitted to avail a loan upto Rs.84 crores for the project from the consortium of banks led by Kerala State Co-operative Bank Ltd. against Government guarantees provided for the said amount. The land reclaimed for the Project was to be pledged as collateral security for the loan availed by GIDA and the Revenue department of the Government was to issue title deeds of the land in favour of GIDA. Thereafter, vide G.O. dated 22.08.2001 [produced as Ext.R10(k)], the Government accorded sanction to assign the extent of 25 hectares of kayal puramboke land comprised in Sy.No.845 in Ernakulam Village to the GIDA for the Vypeen Bridges Project subject to the rules governing assignment of land in Municipal Corporation Areas 1995 without realising any land



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value. Since the assignment order contained a condition that the 25 hectares of land for which patta had been granted to GIDA could not be alienated for a period of 12 years from the date of assignment, and the said condition effectively made it difficult for GIDA to raise the loan amount availed from the consortium of banks by mortgaging the said bank, the State Government vide G.O. dated 07.01.2003 [produced as Ext.R10(l)] accorded sanction to GIDA to sell in public auction the 25 hectares of reclaimed land comprised in Sy.No.843 of Ernakulam Village in part or full, in relaxation of the conditions in the patta issued. The District Collector, Ernakulam was also directed to take steps to delete the offending conditions in the patta issued in favour of GIDA. What is unambiguously clear from the above is that the extent of 25 hectares of reclaimed land in Sy.No.843 of Ernakulam Village was assigned to GIDA for the purposes of the Vypeen Bridges Project and development of the area and GIDA was also issued a patta in respect of the said land for carrying out its development activities in its capacity as a development authority under the extant Town and Country Planning Act.

10. When the Kerala Town and Country Planning Act, 2016 was enacted, replacing the earlier enactment, a fresh G.O. dated 17.04.2018 [produced as Ext.P5] was issued under Section 51(1) of the said Act, notifying GIDA as the “Development Authority” and authorising it to



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exercise powers and to perform functions under Section 56 of the Act for the areas specified in the Schedule to the Notification. It must be noticed however that the area of 25 hectares in Sy.No.843 of Ernakulam Village is not specified in that Notification. This was because the said area of 25 hectares was one in respect of which a patta was issued to GIDA, and therefore, it was land vested in the GIDA for carrying out development activities in connection with the Vypeen Bridges Project. At any rate, the said land was not one that had vested in the Kochi Corporation, and therefore, the Corporation did not have any proprietary right over the land in so far as the development activities thereon were concerned. It is also the admitted case before us that the said land is not included in the asset register of the Kochi Corporation. We therefore cannot concur with the finding of the learned Single Judge in the impugned judgment that GIDA had no authority over the Goshree-Chathiyath road and the Queens walkway adjacent to it, both of which are situated on the aforesaid parcel of land in Sy.No.843 of Ernakulam Village, in respect of which GIDA held a patta. We are of the definite view that there was a vesting of the extent of 25 hectares of land in Sy.No.843 of Ernakulam Village in GIDA and such vesting was to the exclusion of any titular interest over the land in favour of the Corporation of Kochi. The vesting of the land in GIDA was for the specific purpose of development of the land as per the development



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schemes prepared by GIDA from time to time. That said, we must clarify that the said parcel of land vested in GIDA would certainly be subject to the regulatory regime under the Kerala Municipality Act but only to the extent that it does not overlap with the discretionary powers of the GIDA in respect of the Project work undertaken by it.

11. We must next consider the correctness of the findings of the learned Single Judge that GIDA had no right to construct kiosks on the Queens walkway at Kochi. A perusal of the impugned judgment clearly reveals that the learned Single Judge was considering the legality of the construction of kiosks on the footpath/walkway on the landward side of the Goshree-Chathiyath road alone and not on the waterfront adjacent to the Goshree-Chathiyath road. It is evident from the pleadings before us that the construction of kiosks was envisaged in a Project for which the GIDA had called for expression of interest from persons to carry out the works. In the tender finalisation process that ensued, the appellant in W.A.No.1507 of 2026 emerged successful. It has since expended amounts towards carrying out the works envisaged. The apprehension of the writ petitioners was essentially as to whether the construction of kiosks would result in the Queens walkway being obstructed and cause inconvenience to the free use of the walkway by pedestrians accessing the walkway. As is apparent from the impugned judgment, the learned



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Single Judge found merit in the apprehension of the writ petitioners and went on to highlight the importance of maintaining an obstruction free walkway adjacent to the Goshree-Chathiyath road. He also relied on the judgments in **Kottamom (Kottiyar Mangalam) Sri.Dharmashastha Temple Advisory Committees v. State of Kerala and Others - [2019 KHC 861]**, **Sivaprasad v. State of Kerala and Others - [2020 (6) KHC 373]** and the recent decision of the Supreme Court in **Maniyar Illiyaz and Another v. P. Ayyappan and Others - [2026 INSC 647]** to find that if a kiosk is set up or even a hawker is permitted on a footpath or walkway, it would entrench upon the pedestrian space thereby compelling pedestrians to shift from their demarcated territory and increase the likelihood of accidents. Ultimately, the learned Single Judge found that apart from the lack of any authority in GIDA to construct the walkway, the setting up of kiosks on the walkway would occasion an infringement of the fundamental rights of the general public including the writ petitioners, who had access to the walkway.

12. Before we examine the merits of the findings of the learned Single Judge on this aspect, we might note that responding to queries raised by us during the earlier hearing of the appeals, and in an attempt to allay the apprehension of the writ petitioners that pedestrians on the pathway will be obstructed in their free use of the walkway, the GIDA



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has filed an additional affidavit, wherein, it deals with the adverse findings against it in the impugned judgment of the learned Single Judge and clarifies as follows:

"2. The learned Single Judge, while answering issue No.2 in the impugned judgment has observed that the construction of the kiosks on the queen's walkway/footpath will restrict the free movement of all persons, through the queen's walkway. In this regard, it is submitted that the kiosks are not placed on the walkway, but above the deck space available adjacent to the walkway. Prior to 2025, the deck space was covered by concrete slabs of 10 cm thickness and the kiosks were placed above the concrete slab. Consequently, the kiosks clearly stood elevated above the walkway. There is also a finding in the impugned judgement that "as the Right to Life and Liberty includes the Right to walk freely, without any obstruction, footpaths cannot be used for setting up commercial kiosks. Further, construction of commercial kiosks on the Queen's walkway will prejudice unobstructed access and thereby affect the fundamental right of the pedestrians. Hence, GIDA has no right to construct kiosks on the Queen's walkway at Kochi. If any kiosk is to be constructed, it can be done only in areas designated or demarcated for that purpose."

3. In 2025, the appellant removed the concrete covering slabs placed above the deck space and replaced the same by using modern paving tiles exactly resembling like the walkway. Even though in normal sight, it could be felt that kiosks stand on the walkway. However, in reality, the kiosks are placed on the space outside the walkway.

4. In light of the observations in the impugned judgement as delineated above, the appellant herein proposes to made the following modifications in order to earmark a separate and distinct space for the operation of the kiosks:-

- i. Demarcating a clear obstruction free walkway having a width of 2.5 meters.
- ii. Placing steel/stainless steel hand rails between the walkway and the kiosks space, throughout the length of the walkway.

5. In addition to demarcating a designated area for kiosks, distinct from the walkway and ensuring that the pedestrian traffic on the Queen's walkway is not obstructed, the appellant further proposes the following modifications for the smooth functioning of the kiosks:

- i. Hand rails having the height of about 1 meter will be placed at a distance of 4 meter from the eastern most side of Queens Walkway. This will enable a hindrance free walkway having a width of 2.5 meter and a social space having a width of 4 meter on the western and eastern sides of the hand rails respectively.
- ii. The existing cycle track is practically not being used as a cycle track because of the frequent interruptions caused by the entrance gates of various apartments at different places. The total length of the cycle track measures to 994 meters. The ten (10) apartment entrances are having a total length of 180 meters. The purpose of cycle track has been defeated by the apartment entrances. As such, the appellant proposes to transform the existing cycle track into a pedestrian walkway.

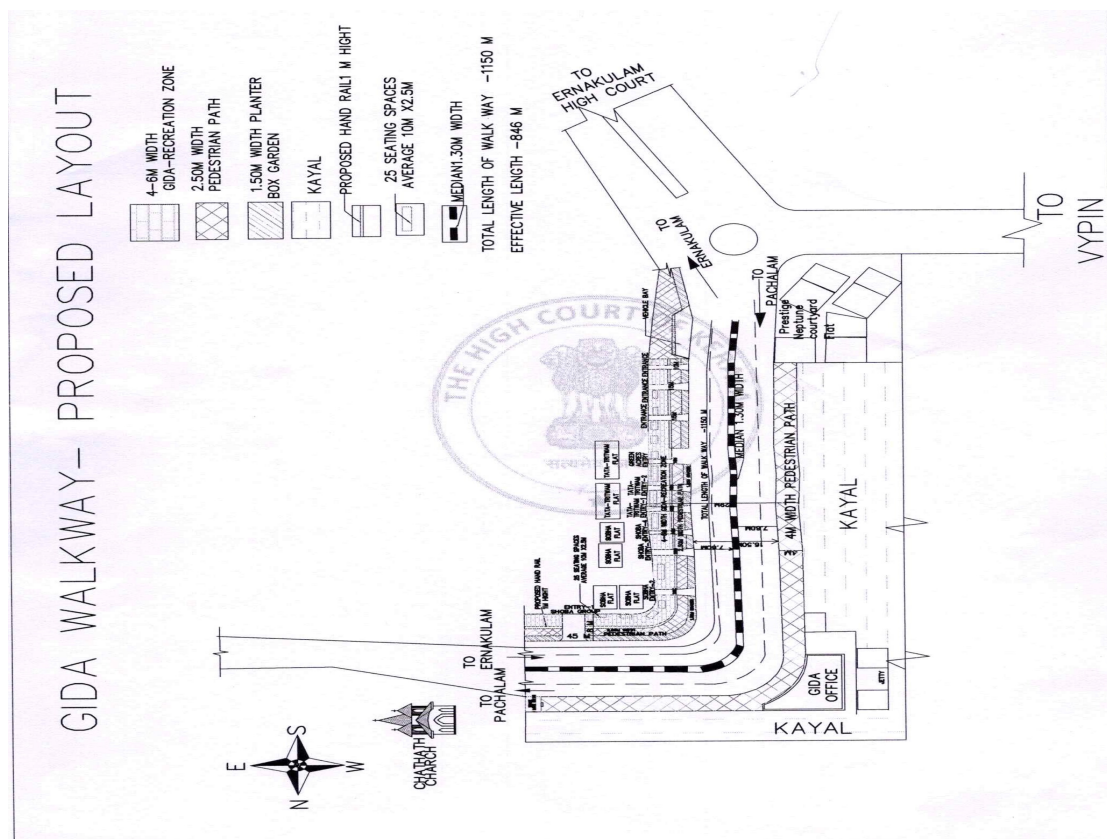
6. With the above modifications, the appellant will provide a well demarcated



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walkway having a width of 2.5 meters on the eastern side of the road, in addition to the 4 meter wide Queen's walkway on the western side.

7. It is submitted that the plan incorporating the aforesaid proposals have also been prepared by the appellants. The true copy of the plan prepared by the 1st appellant is produced herewith and may be marked as **Annexure-1**. The said plan has been prepared pursuant to the observations of the learned Single Judge in the impugned judgement and as such, could not have been produced in the writ petition, notwithstanding the exercise of due diligence. It is further submitted that a consideration of the plan so prepared is substantial for the adjudication of the instant appeal since it addresses the very same concerns of the learned Single Judge. It is also pertinent to note that the updated plan, except for the re-purposing of the cycle track, does not materially modify the original spatial segregation. It merely incorporates the actual spatial segregation into the plan, which was originally not incorporated. Since the original drawings did not reflect the actual division of space as seen on the ground, the learned Single Judge proceeded on an erroneous notion that said segregation did not exist and that the kiosks were constructed by encroaching upon the walkway for pedestrian movement. Thus, it is necessary that the appellants be permitted to produce the updated plan and this Hon'ble Court be pleased to accept the same into the files. A separate application seeking the above is filed herewith which may kindly be allowed."





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13. In the light of the above clarification offered by the GIDA, we do not find any basis for the continued apprehension of the respondents/writ petitioners that there will be an infringement of any of their fundamental rights traceable to Articles 19 or 21 of the Constitution of India. While it may be true that even GIDA, which is an authority that answers to the description of 'State' within the meaning of that term under Article 12 of the Constitution of India, would be obliged to safeguard the fundamental right of pedestrians to an obstruction free walkway, if it chooses to open the said walkway for public access, the additional affidavit filed by GIDA before us in these proceedings clearly suggests that there would indeed be an unobstructed walkway adjacent to the Goshree-Chathiyath road that the public can access. When read together with our earlier finding that the GIDA does have the authority to carry out the development activities with regard to the road and walkway in question, we find ourselves constrained to set aside the findings of the learned single judge on this aspect as well.

14. Before parting with this issue, we might also observe that there was really no scope for the learned Single Judge to consider an argument regarding infringement of fundamental rights of the general public in a writ petition filed by an Association of apartment owners



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based on rights obtained by them through a purchase of immovable property. This aspect assumes added significance when we find that the learned Single Judge was not holding the roster for Public Interest Litigations as rightly pointed out by the learned senior counsel Sri.George Poonthottam.

15. As for the extent of private law rights, if any, that the apartment owners have over the adjacent road and walkway, we are of the view that that is not an issue that can be considered in a writ petition. This is more so because we are told that there are civil suits instituted for determination of those rights, and any rights recognized in the writ petitioners in those proceedings will, at any rate, not be prejudicially affected by the observations in this judgment.

The upshot of the above discussion is that we allow the Writ Appeals by setting aside the impugned judgment of the learned Single Judge, and declare that the GIDA has the authority to develop the road and walkway situated on the land forming part of the 25 hectares originally assigned to them in Sy.No.843 of Ernakulam Village. We also find that in the absence of any material to suggest that the writ petitioners have any right over the said road and walkway traceable to their agreement for purchase of the apartments owned by them, the

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putting up of kiosks in the manner proposed by GIDA in the additional affidavit filed by them, as extracted above, cannot be seen as illegal or in violation of any rights fundamental or otherwise of the writ petitioners.

**Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE**

**Sd/-
PREETA A.K.
JUDGE**

prp/

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APPENDIX OF W.A.NO.1423 OF 2026

PETITIONER ANNEXURES:

ANNEXURE 1 THE TRUE COPY OF THE PLAN PREPARED BY THE 1ST
APPELLANT .

RESPONDENTS ANNEXURES:

ANNEXURE R7 (A) TRUE COPY OF THE COMMUNICATION NO.CSML/OPEN
SPACE PHASE 7/2024/429 DATED 26.3.2026 OF THE
DGM-CIVIL ADDRESSED TO THE 2ND RESPONDENT
ALOLNG WITH DIRECTIONS TAKEN IN THE MEETING.

ANNEXURE R1 (A) A TRUE COPY OF THE PHOTOGRAPH SHOWING THE
MEASUREMENT OF THE WALKWAY.

//TRUE COPY//

P.S. TO JUDGE