

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.V.N.BHATTI
&
THE HONOURABLE MR.JUSTICE BASANT BALAJI**

Thursday, the 8th day of June 2023 / 18th Jyaishta, 1945

WP(C) NO. 14124 OF 2023

PETITIONERS:

1. MAPRANAM NILAMPATHINJAMUGAL RESIDENTS ASSOCIATION(EKM / TC / 82 / 2018) REPRESENTED BY ITS PRESIDENT, ANIL KUMAR P.G, AGED 60 YEARS, S/O.P.K GOVINDAN NAIR, PALAKKAT HOUSE, MAPRANAM, RAJAGIRI VALLEY, KAKKANAD, KOCHI- 682039.
2. JEWEL LEXINGTON OWNERS ASSOCIATION (EKM/TC/44/2017) REPRESENTED BY AUTHORISED SIGNATORY,SIBY JOSEPH, AGED 65 YEARS, S/O.LATE V.C JOSEPH, FLAT NO.7A, JEWEL LEXINGTON, RAJAGIRI VALLEY, KAKKANAD, KOCHI - 682030, AS AUTHORISED BY THE RESOLUTION PASSED BY THE MANAGEMENT COMMITTEE OF THE JEWEL LEXINGTON OWNERS ASSOCIATION.
3. MATHER HIGHLANDS APARTMENTS OWNERS ASSOCIATION (EKM/TC/317/2017) REPRESENTED BY ITS SECRETARY, GEORGE MATHEW, AGED 34 YEARS, S/O.MATHEW GEORGE, TOWER 1, FLAT 5B, MATHER HIGHLANDS, RAJAGIRI VALLEY, KAKKANAD, KOCHI- 682030.
4. JEWEL KENINGSTON FLAT OWNERS ASSOCIATION (EKM/TC/606/2018), REPRESENTED BY AUTHORISED SIGNATORY,NISHITH THYVALAPPIL, AGED 49 YEARS S/O.T.V. VIJAYAN, FLAT F8, JEWEL KENINGSTON, RAJAGIRI VALLEY, KAKKANAD, KOCHI - 682030, AS AUTHORISED BY THE RESOLUTION PASSED BY THE MANAGEMENT COMMITTEE OF THE JEWEL KENINGSTON FLAT OWNERS ASSOCIATION.
5. LAVENDER APARTMENT RESIDENTS ASSOCIATION (EKM/TC/27/2018), REPRESENTED BY ITS PRESIDENT, ZIAD A. RAHMAN, AGED 56 YEARS, S/O.ABDUL RAHMAN, 1/1106, PADAMUGAL, KAKKANAD, COCHIN - 682030.
6. SFS SUNNYVALE APARTMENT OWNERS' ASSOCIATION (EKM/TC/519/2022), REPRESENTED BY ITS SECRETARY,TOM ABRAHAM, AGED 44 YEARS, S/O.P.T. ABRAHAM, FLAT 2B, SFS SUNNYVALE, INFOPARK EXPRESS WAY, RAJAGIRI VALLEY P.O., KAKKANAD, KOCHI - 682030.
7. HEERA VASTUGRAMAM OWNERS ASSOCIATION (ER397/08), REPRESENTED BY ITS PRESIDENT, RENJI KURIEN, AGED 52 YEARS, S/O.K. M. KURIAN THUKALAN KACHAPPILLIL, VILLA E.7/C, HEERA VASTUGRAMAM. RAJAGIRI VALLEY, KAKKANAD, KOCHI - 682030.
8. CVC NEO ABANA APARTMENT OWNERS ASSOCIATION AGED 35 YEARS REG NO.EKM/TC/329/2018, REPRESENTED BY ITS SECRETARY, JINO KURIAKOSE, AGED 35 YEARS, S/O.THOMAS, FLAT GB, CVC NEO ABANA, RAJAGIRI VALLEY, KAKKANAD, KOCHI- 682039.
9. JEWEL RICHMOND FLAT OWNERS ASSOCIATION (EKM/TC/183/2020), REPRESENTED BY AUTHORISED SIGNATORY, MANOJ KUMAR R, AGED 45 YEARS, S/O. RAJASEKHARAN NAIR,FLAT B7, JEWEL RICHMOND, RAJAGIRI VALLEY, KAKKANAD, KOCHI- 682030, AS AUTHORISED BY THE RESOLUTION PASSED BY THE MANAGEMENT COMMITTEE OF THE JEWEL RICHMOND FLAT OWNERS

ASSOCIATION.

10. HEERA CYBER VIEWS OWNERS ASSOCIATION (EKM/TC/92/2020), REPRESENTED BY ITS SECRETARY, ANIL KUMAR, AGED 62 YEARS, S/O. RAMAKRISHNAN NAIR, FLAT 8F, HEERA CYBER VIEW INFOPARK ROAD, KAKKANAD, EDACHIRA, KOCHI-682030.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001.
2. KERALA STATE DISASTER MANAGEMENT AUTHORITY REPRESENTED BY ITS MEMBER SECRETARY, KSDMA, OBSERVATORY HILLS, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, PIN - 695033.
3. THE DISTRICT COLLECTOR, OFFICE OF THE DISTRICT COLLECTOR, CIVIL STATION, KAKKANAD, ERNAKULAM, KOCHI, PIN - 682030.
4. MUNICIPAL CORPORATION OF KOCHI, REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD, ERNAKULAM, KOCHI, PIN - 682011.
5. VADAVUKODE PUTHENCRUZ GRAMA PANCHAYAT REPRESENTED BY ITS SECRETARY, PUTHENCRUZ P.O., ERNAKULAM, PIN - 682308.
6. THE KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS CHAIRMAN, PLAMOODU, PATTOM, THIRUVANANTHAPURAM, PIN - 695004.
7. THE KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION REPRESENTED BY ITS MANAGING DIRECTOR, 2ND FLOOR, CHOICE TOWERS, MANORAMA JUNCTION, KOCHI, PIN - 682016.
8. ZONTA INFRATECH PRIVATE LIMITED REPRESENTED BY ITS MANAGING DIRECTOR, KOTTATHALA P.O., KOTTARAKKARA, KOLLAM, PIN - 691507.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the fourth and fifth respondents to commence necessary measures to prevent waste flowing into the water bodies during the imminent start of monsoon by June 2023, pending disposal of the above Writ Petition (Civil).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S H.SUBHALEKSHMI and BABY NANDHINI K., Advocates for the petitioners, SRI.C.E.UNNIKRISHNAN, SPECIAL GOVERNMENT PLEADER and of SRI.T.V.VINU, AMICUS CURIAE, the court passed the following:

p.t.o

S.V.N. BHATTI, C.J. & BASANT BALAJI, J.

W.P.(C) No. 14124 of 2023

Dated: 8th June 2023

ORDER

S.V.N. Bhatti, C.J.

We heard learned Advocate, Ms H Subhalekshmi, Special Government Pleader, Mr C E Unnikrishnan, and Amicus Curiae, Mr T V Vinu.

2. Any steps the Corporation initiates in Bramhapuram which would aggravate the living condition of neighbours of Bramhapuram could be brought to the Court's notice. The Court will look into the grievances and pass orders as necessary to redress the grievances of neighbours of Bramhapuram.

3. The locals of Bramhapuram, if are denied any other benefits despite suffering so much, definitely can bring it to

the notice of the Court, and the Court will ask the Additional Chief Secretary, the District Collector and the Corporation to provide the benefits on par with similarly situated individuals residing in other localities of Cochin.

4. The 'Polluter pays' principle is argued in the final hearing. After the pleadings are complete, the Court will consider and pass orders at the appropriate stage.

5. In places where municipal solid waste is dumped in Bramhapuram by the transporting agencies, steps are taken to provide temporary sheds until treatment/segregation is handled. Within 15 days, the temporary sheds are put in place to prevent the percolation of pollution from municipal solid waste during the rainy season into soil and water bodies.

6. We call upon the Additional Chief Secretary to issue an order immediately to the District Collector/Secretary, Cochin Municipal Corporation, to take up the above steps.

7. Socio-economic impact study of Bramhapuram is undertaken, and a report is filed on the impact on the population from the unauthorised handling of the municipal solid waste site in Bramhapuram. The report gives the impact on the health of the inhabitants, referring to the first circle – 500-metre radius, second circle – 2-kilometre radius, and third circle – 5-kilometre radius of human habitation. The study can be on random samples to be decided by the District Administration.

8. The Additional Chief Secretary will direct the Collector, Ernakulam District, to carry out the study in the affected area and place a report before the Court.

Sd/-

S.V.N.BHATTI
CHIEF JUSTICE

Sd/-

BASANT BALAJI
JUDGE

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