



2023:KER:81403

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 13<sup>TH</sup> DAY OF DECEMBER 2023 / 22ND AGRAHAYANA,

1945

CON.CASE(C) NO. 498 OF 2022

AGAINST THE ORDER DATED 11.10.2019 I WP(C) 27136/2019 OF

HIGH COURT OF KERALA

PETITIONERS/PETITIONERS:

1 MAHESWARI S

[REDACTED]

2 SAKTHI S

[REDACTED]

3 JAYALAKHMI S (MINOR)

[REDACTED]

BY ADVS.  
KALEESWARAM RAJ  
VARUN C.VIJAY  
THULASI K. RAJ

RESPONDENTS/RESPONDENTS NO.3 & 4:

1 VINU C.KUNJAPPAN,  
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER,  
SECRETARY, THRISSUR CORPORATION, THRISSUR 680 001



CON.CASE(C) NO. 498 OF 2022 & WP(C) NO. 27136 OF 2019

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- 2 DRISHYA MANOHAR, AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER,  
ASSISTANT ENGINEER, SECTION 1,  
ELECTRICITY DEPARTMENT, THRISSUR CORPORATION,  
THRISSUR 680 001
- 3 AMBILI, AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER,  
ASSISTANT ENGINEER, SECTION 1,  
ELECTRICITY DEPARTMENT, THRISSUR CORPORATION,  
THRISSUR 680 001
- 4 NEETHU, AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER,  
ASSISTANT ENGINEER, SECTION 1,  
ELECTRICITY DEPARTMENT, THRISSUR CORPORATION,  
THRISSUR 680 001

BY ADVS.  
SANTHOSH P.PODUVAL  
SANTHOSH KUMAR G,  
SRI.A.J.VARGHESE, SR.G.P.

THIS CONT. CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 13.12.2023, ALONG WITH WP(C).27136/2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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CON.CASE(C) NO. 498 OF 2022 & WP(C) NO. 27136 OF 2019

-:3:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 13<sup>TH</sup> DAY OF DECEMBER 2023 / 22ND AGRAHAYANA,

1945

WP(C) NO. 27136 OF 2019

PETITIONERS:

1 MAHESWARI S

[REDACTED]

2 SAKTHI S,

[REDACTED]

3 JAYALAKSHMI S,

[REDACTED]

BY ADVS.  
KALEESWARAM RAJ  
KUM.A.ARUNA  
KUM.THULASI K. RAJ



CON.CASE(C) NO. 498 OF 2022 & WP(C) NO. 27136 OF 2019

- : 4 :-

RESPONDENTS :

- 1 STATE OF KERALA  
REPRESENTED BY SECRETARY TO GOVERNMENT,  
DEPARTMENT OF LOCAL SELF GOVERNMENT,  
SECRETARIAT, THIRUVANANTHAPURAM 695 001
- 2 THRISSUR CORPORATION,  
REPRESENTED BY ITS SECRETARY THRISSUR  
CORPORATION, THRISSUR 680 001
- 3 SECRETARY,  
THRISSUR CORPORATION, THRISSUR 680 001
- 4 ASSISTANT ENGINEER,  
SECTION 1, ELECTRICITY DEPARTMENT, THRISSUR  
CORPORATION

ADDL.R5 VINU C. KUNJAPPAN  
SECRETARY, MUNICIPAL CORPORATION, KANNUR-670001  
SUO-MOTU IMPEADED AS PER ORDER DATED 16/06/2023  
IN W.P.C

BY ADV SRI. SANTHOSH P.PODUVAL, SC, THRISSUR  
CORPORATION  
SRI.A.J.VARGHESE, SR.G.P.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 13.12.2023, ALONG WITH CON.CASE(C).498/2022,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



CON.CASE(C) NO. 498 OF 2022 & WP(C) NO. 27136 OF 2019

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**A.MUHAMED MUSTAQUE, J.**

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**Con. Case (C) No.498 of 2022**

**&**

**W.P.(C) No.27136 of 2019**

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Dated this the 13<sup>th</sup> day of December, 2023

**J U D G M E N T**

The Writ Petition and Contempt Case arise between the same parties in relation to the same subject matter of the issue. The writ petition was filed by the widow of late Shanmughan. Shanmughan had a temporary petti bunker shop at Shakthan Market, Thrissur. This was a licensed bunk shop. He approached this Court with a writ petition challenging an order of eviction. As a prelude to eviction, he was directed to disconnect electricity supply. When matter was moved before this Court, this Court on 11/10/2019 passed the following order in the writ petition:

“This Court finds in several writ petitions filed by street vendors, it is apparent that the Corporation has not taken steps to finalise the list of street vendors. The Secretary of the Corporation



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shall file an affidavit stating what steps have been taken so far to finalize the list of street vendors under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. That affidavit shall be on board by the next posting.

There shall be an interim order as prayed for. The fourth respondent shall reconnect electricity supply to the petitioners' Shop No.75.”

2. Thereafter, a contempt petition was filed by the petitioners in the writ petition alleging violation of the interim order. As seen from Annexure III produced before this Court, bunk was removed on 02/03/2022, much after the interim order was passed in the matter. The Secretary of the Thrissur Corporation filed a counter on 23/03/2022, stating that he had not issued any orders to demolish bunk shop occupied by the petitioners, and he has no direct knowledge regarding the actions and circumstances leading to demolition of the shop room. He was transferred to Kannur Corporation on 21.02.2022.

3. Admittedly, the place where bunk originally situated is now in possession of Thrissur Corporation and Thrissur Corporation is using it for construction of skywalk. Nobody has a case that it was done by the 1<sup>st</sup> petitioner herself.



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4. This Court in contempt on 26/10/2022 passed the following order:

“Read order dated, 14-10-2022.

2. The learned Counsel for the petitioner would submit that they are agreeable for relocation at Golden Market at Sakthan Thampuran, Thrissur. The learned Standing Counsel for the Corporation would submit that, if they are agreeing this has to be placed before the Corporation Council for their approval. It is to be noted that no approval is required in this matter as the Secretary has to act on the judicial orders of this Court. In such circumstances, the Secretary is directed to allot a bunk in the Golden Market by the petitioner within a period of three weeks. No further time will be granted to Secretary in this matter. The bunk shall be erected within this time and the petitioner shall be relocated to the new place.

5. Accordingly, the petitioners were given alternative site in the Golden Market and she has been relocated to that place. Now what remains is the action relating to the demolition of the bunk. According to the petitioner, she has lost more than Rs.3,53,700/- and she should be compensated. This Court has also impleaded Vinu.C.Kunjappan, the Secretary who was initially stated to be in charge when interim order passed by this Court. The other official respondents in contempt also submitted that they have no role in demolishing the bunk.



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6. This Court is competent to pass orders that grant relief in such a manner as to uphold the fundamental rights of a citizen. This Court cannot ignore such illegal action in violation of the Court order. This Court is now taking a lenient view, considering the fact that the petitioners have been relocated to another place, by confining the relief to the petitioners by way of awarding nominal damages. The trauma and sufferings of the petitioners at the hands of public officials cannot be overlooked, and making a remedy less on the high handed action; whoever has been the perpetrator of that action, is condemnable.

7. In such circumstances, this Court is not in a position to quantify the entire loss, it is appropriate for the Thrissur Corporation to pay a sum of Rs.50,000/- towards damages. The Thrissur Corporation is free to fix the responsibility on any officer according to the Corporation is liable for such high handed action to recover the same in accordance with law. As of now, the Thrissur Corporation is in possession of the land after demolition of the petty bunker shop. The Corporation cannot wriggle out from the responsibility to pay the





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damages as above. However, this payment of damages will not preclude the petitioners from approaching the Civil Court to claim compensation for the actual loss suffered by them. The amount as above shall be paid by the Thrissur Corporation to the petitioners within a period of two months.

The Writ Petition and Contempt Case are accordingly disposed in the light of the directions as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

AS



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APPENDIX OF CON.CASE(C) 498/2022

**PETITIONERS' ANNEXURES :**

- ANNEXURE 1 TRUE COPY OF THE INTERIM ORDER DATED 11-10-2019 IN W.P(C) NO. 27136/2019
- ANNEXURE II TRUE COPY OF THE INTERIM ORDER DATED 01-12-2021 IN W.P(C) NO. 27136/2019
- ANNEXURE III TRUE COPIES OF THE PHOTOGRAPHS OF SHOP NO. 75 AT DIVISION NO. 35, SHAKTHAN MARKET, THRISSUR OF THE PETITIONERS.

**RESPONDENTS' ANNEXURES :**

- ANNEXURE R1 (A) A TRUE COPY OF GOVERNMENT ORDER DATED 21/2/22
- ANNEXURE R1 (B) TRUE COPY OF HEARING NOTE PREPARED BY SECRETARY, THRISSUR CORPORATION DATED 01/04/2022.
- ANNEXURE R1 (C) TRUE COPY OF THE ORDER NO.R13/R7/58729/18 DATED 2/11/22 ISSUED BY THE SECRETARY, CORPORATION OF THRISSUR.
- ANNEXURE R1 (D) TRUE COPY OF THE RELEVANT PAGES OF THE GOVERNMENT ORDER NUMBERED AS G.O. (RT) NO.388/2022/LSGD DATED 21/02/2022 ISSUED BY GOVERNMENT OF KERALA.
- ANNEXURE R1 (E) TRUE COPY OF THE LETTER DATED 18/03/2022 ISSUED TO THE PRESENT SECRETARY OF THE THRISSUR MUNICIPAL CORPORATION.



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APPENDIX OF WP(C) 27136/2019

PETITIONERS' EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE RECEIPT DATED 15-12-2018 ISSUED BY THE THRISSUR CORPORATION
- EXHIBIT P2 TRUE COPY OF THE RECEIPT ISSUED BY THE THRISSUR CORPORATION
- EXHIBIT P3 TRUE COPY OF THE TAX RECEIPT ISSUED BY THE RESPONDENT CORPORATION IN THE YEAR 2019
- EXHIBIT P4 TRUE COPY OF THE DEMAND AND DISCONNECTION NOTICE ISSUED BY THE ELECTRICITY DEPARTMENT, RESPONDENT CORPORATION
- EXHIBIT P5 TRUE A COPY OF THE RECEIPT SHOWING THE PAYMENT OF THE BILL AMOUNT OF RS. 679
- EXHIBIT P6 TRUE COPY OF THE RECEIPT ISSUED BY THE RESPONDENT CORPORATION SHOWING THAT RENT, GST AND OTHER CESS ARE PAID FOR THE SHOP[
- EXHIBIT P7 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 28-09-2019
- EXHIBIT P8 TRUE COPY OF THE NOTICE DATED 04-10-2019
- EXHIBIT P9 TRUE COPY OF THE INTERIM ORDER DATED 06-06-2019
- EXHIBIT P10 TRUE COPY OF THE ORDER ISSUED BY THE CONSUMER DISPUTES REDRESSAL FORUM, THRISSUR DATED 4-10-2019 IN IA 186/19 IN CC 554/2019



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EXHIBIT P11                    TRUE COPY OF THE ORDER IN IA 191/19 IN  
CC 554/2019

RESPONDENTS' EXHIBITS:

EXHIBIT-R5 (A)                TRUE COPY OF THE RELEVANT PAGES OF THE  
GOVERNMENT ORDER NUMBERED AS G.O. (RT)  
NO.388/2022/LSGD DATED 21/02/2023 ISSUED  
BY GOVERNMENT OF KERALA.

EXHIBIT-R5 (B)                TRUE COPY OF THE LETTER DATED 18/03/2022  
ISSUED TO THE PRESENT SECRETARY OF THE  
THRISSUR MUNICIPAL CORPORATION.