

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR
&
THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

Monday, the 7th day of March 2022 / 16th Phalgun, 1943
CONTEMPT CASE(C) NO. 118 OF 2022 IN WP(C)1737/2012

PETITIONER:

MATHEW Z PULIKUNNEL, AGED 70 YEARS, S/O.LATE MR.ZACHARIAH PULIKUNNEL, 26 STRATHCONA DRIVE, BELLEVILLE, ORTARIO, K8N4H9, CANADA, REPRESENTED BY THE POWER OF ATTORNEY HOLDER MR.THARUN THOMAS, AGED 26 YEARS, S/O.MR.P.J.THOMAS, CHALASSERY, PULIKKUTTISSERY P.O., KOTTAYAM.

BY ADV.YESHWANTH SHENOY

RESPONDENTS:

1. SMT.SOPHY THOMAS, REGISTRAR GENERAL, HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. SMT.N.ANITHA, REGISTRAR (JUDICIAL), HIGH COURT OF KERALA, ERNAKULAM-682 031.

This Contempt of court case (civil) having come up for orders on 07.03.2022, the court on the same day passed the following:

ORDER

सत्यमेव जयते



**A.K.JAYASANKARAN NAMBIAR
&
MOHAMMED NIAS C.P., JJ.**

Cont. Case (C).No.118 OF 2022

Dated this the 7th day of March, 2022

ORDER

A.K.Jayasankaran Nambiar, J.

This Contempt of Court Case has come up before us for admission pursuant to the defects pointed out by the Registry being cured by the petitioner pursuant to our last order dated 16.12.2021. The learned counsel for the petitioner Sri.Yeshwanth Shenoy brings to our notice that two writ petitions, subsequently numbered as W.P.(C).Nos.17654/2021 and W.P.(C).No.17657/2021 respectively, had been presented before the Registry on 9.6.2021. On scrutiny of the said files, the Registry is stated to have noted nine defects in the former writ petition, and two defects in the latter, both of which were cured, at the instance of the petitioner, on 11.6.2021. Despite the said fact, on 14.6.2021, the Registry is seen to have endorsed on the file subsequently numbered as W.P.(C).No.17654/2021 that of the nine defects noted, defects 1 and 2 had been cured and defects 3 to 9 answered. It is stated, however, that the writ petition was neither numbered thereafter nor sent to the Bench. With regard to the file that was subsequently numbered as W.P.(C).No.17657/2021, the Registry is stated to have

Cont. Case (C).No.118/2022

:: 2 ::

noted 5 fresh defects on 14.6.2021. It is the case of the petitioner that these new defects were also cured on the very next day, that is, 15.6.2021, but still the Registry did not post the matters before the Bench. This apparently prompted the learned counsel for the petitioner to address an email dated 2.7.2021 to the Registry seeking clarification as to why the writ petitions had not been posted. When the said email did not elicit any response, a legal notice [Annexure - A3 dated 5.7.2021] was sent to the Registry. It is the case of the petitioner that thereafter while he was expecting the writ petitions to be numbered and posted before the Bench, a new defect was noted by the Registry in the form of a clarification sought for from the petitioner as to whether the Chief Justice of the High Court of Kerala could be made a party in the writ petition. To the said query, the learned counsel for the petitioner appears to have provided an answer on 7.7.2021, coupled with a request to the Registry to post the matter before the Bench. The matters were thereafter listed before the learned Single Judge on 9.7.2021, by showing the writ petitions as defective matters in the cause list and without mentioning the name of the petitioner's counsel in the cause list. The unnumbered writ petitions were thereafter again posted before the learned Single Judge on 13.7.2021 and 15.7.2021, and finally on 31.8.2021, when, by an order of the said date, the learned Single Judge directed the

Cont. Case (C).No.118/2022

:: 3 ::

Registry to number the writ petitions and list them for admission. The writ petitions were thereafter heard on merits by the learned Single Judge and dismissed by a judgment dated 1.11.2021.

2. In the Contempt of Court Case before us, the learned counsel for the petitioner essentially questions the propriety of the Registry of this Court in raising fresh defects periodically, after the earlier defects stood either cured or answered by the learned counsel. He would also question the propriety of the Registry holding on to the file, in respect of which initially a defect was noted, but subsequently the said defect was either answered or cured by the respective counsel, ignoring the request of the counsel for sending up the matter before the Bench for consideration on merit. He places reliance on the directions issued by this Court in **Ayub Khan P.A. v. State of Kerala and Another** [order dated 20.1.2012 in W.P.(C).No.1737/2012, produced as Annexure - A1 along with the Contempt of Court Case]. It is his categorical submission that if the directions of the nature issued in **Ayub Khan [supra]** are flouted by the Registry of this Court, then it would lead to a delay in the hearing, on merits, of the petition filed by a litigant invoking Article 226 of the Constitution of India. This, he says, would effectively infringe a litigant's right to access to justice, which is a fundamental right

Cont. Case (C).No.118/2022

:: 4 ::

traceable to Article 21 of the Constitution of India.

Taking note of the submission of the learned counsel for the petitioner, we are *prima facie* of the view that the averments in the Contempt of Court Case call for a response from the 2nd respondent herein, as to the reasons why the listing of the writ petitions filed by the petitioner, as detailed above, was delayed, more so, in circumstances where the interim order dated 20.1.2012 in **Ayub Khan [supra]** held the field, and contained express directions as regards posting of cases before the Bench in such cases and further, a direction to the Registrar (Judicial) to circulate those instructions to the Filing Section. The 2nd respondent shall file its response to the averments in the Contempt of Court Case within three weeks from today.

Post on 01.04.2022.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
MOHAMMED NIAS C.P.
JUDGE

prp/7.3.22

APPENDIX OF CON.CASE(C) 118/2022

Annexure A1

**CERTIFIED COPY OF THE ORDER IN AYUB KHAN P.A. V.STATE
OF KERALA AND ANOTHER REPORTED IN 2012 (1) KHC 615
(WP(C)1737/2012 DATED 20-1-2012)**

Annexure A3

**COPY OF THE NOTICE DATED 5 JULY 2021 FROM THE
PETITIONER'S COUNSEL TO THE RESPONDENTS**

