

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

Wednesday, the 9th day of October 2019/17th Aswina, 1941

WP(C) No.25901/2018(K)

PETITIONER:

VILASINI, D/O. CHAMI, KALLIVALAPPIL HOUSE,
VALLOOR AMAYOOR PO, PATTAMBI, PALAKKAD DISTRICT.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, DEPARTMENT OF EXCISE, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
2. DEPUTY COMMISSIONER OF EXCISE, PALAKKAD-678001.
3. THE CIRCLE INSPECTOR OF EXCISE, OTTAPALAM-679502.
4. THE DISTRICT COLLECTOR, PALAKKAD-678001.
5. C.K. CHANDRAN, S/O. KANNAN, CHENGODE HOUSE, KODALLOOR, PARALI, PALAKKAD DISTRICT-678612.

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 2nd and 3rd respondents to immediately shift to another place the toddy shop No.19 in Pattambi Range, Group No.VII working in Building No.1/70(1) of Pattambi Municipality, pending the Writ petition (Civil) .

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 04-01-2019 and upon hearing the arguments of M/S. P.JAYARAM & A.HAROON RASHEED, Advocates for the petitioner, SENIOR GOVERNMENT PLEADER for respondents 1 to 4, SRI. M.C.JOHN, Advocate for the respondent 5 and of SRI. R.T.PRADEEP & SRI. ASHOK KINI.M., AMICUS CURIAE, the court passed the following:-

P.T.O.

mls

A. MUHAMMED MUSTAQUE, J.

W.P.(C) No. 25901 of 2018

Dated this the 9th day of October, 2019

ORDER

This matter raises an important question as to the privacy of the persons living in a neighbourhood of a toddy shop. Petitioner approached this Court challenging the proceedings of Deputy Excise Commissioner, Palakkad ordering shifting of existing toddy shop near to the place where the petitioner is residing. This Court often witnesses, many writ petitions were filed by the persons who are aggrieved by functioning of the toddy shop in their neighbourhood. There were challenges on the ground that the toddy shops were located without adhering to the distance rules prescribed under the rules. The underlying concern of all in these writ petitions was in regard is to the protection of their privacy.

2. The operation of the toddy shop often would invade the right of neighbours. The environment around such toddy shop itself would create nuisance to the people living in the locality. The Right of Privacy was not treated as guaranteed fundamental right till the

..2..

declaration in *K.S. Puttaswami V. Union of India and Others* [2017 (10) SCC 1]. If toddy shop is not constructed or established in such a manner, protecting the privacy of the people living in such locality, it would amount to the encroachment of fundamental rights of the citizen. The State has to specify the conditions that are required to conduct a toddy shop causing least inconvenience to the people living in the locality. Considering the larger issue involved in the matter, it is appropriate to seek assistance of Adv.R.T.Pradeep as well as Adv.Ashok Kini **M** as amicus curiae.

Part Heard.

Post on 30.10.2019.

/true copy/

SD/-

A. MUHAMED MUSTAQUE
(JUDGE)

ASSISTANT REGISTRAR

PR