

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

WEDNESDAY, THE 23<sup>RD</sup> DAY OF MARCH 2022 / 2ND CHAITHRA, 1944

WP(C) NO. 6920 OF 2022

**PETITIONERS:**

- 1 THE PARENT TEACHER ASSOCIATION  
GOVERNMENT LOWER PRIMARY SCHOOL, VELLAYIL EAST,  
KOZHIKODE, REPRESENTED BY ITS PRESIDENT.
- 2 ABDUL KAREEM N.P  
AGED 36 YEARS  
S/O. BASHEER N.P, NALUKOODIPARAMBU, NADAKKAVU,  
KOZHIKODE - 673011.
- 3 KUNHI MOHAMMED  
AGED 70 YEARS  
S/O. AHAMED KOYA, THAYYIL HOUSE, P.O, KOLATHARA,  
KOZHIKODE - 673655.

BY ADV M.KRISHNAKUMAR

**RESPONDENTS:**

- 1 THE COMMISSIONER OF POLICE  
KOZHIKODE CITY, OFFICE OF THE COMMISSIONER OF  
POLICE, PALAYAM, KOZHIKODE - 673004.
- 2 THE STATION HOUSE OFFICER  
VELLAYIL POLICE STATION, BEACH ROAD, WEST HILL,  
KOZHIKODE - 673005.
- 3 JAYAPRAKASH  
AGED 69 YEARS  
S/O.KRISHNAN, AARANKUNI, NADAKKAVU, KOZHIKODE -  
673011.

- 4 JYOTHI PARKASH  
AGED 45 YEARS  
CPM BRANCH SECRETARY, GANDHI ROAD, VELLAYIL,  
KOZHIKODE -673011.
- 5 ALPHONSA  
WARD COUNCILOR, 65TH WARD, KOZHIKODE CORPORATION,  
CALICUT BEACH, NEAR AKASHVANI, KOZHIKODE - 673032.
- 6 SOUFIYA ANISH  
WARD COUNCILOR, 66TH WARD, KOZHIKODE CORPORATION,  
CALICUT BEACH, NEAR AKASHVANI, KOZHIKODE - 673032,
- 7 SUDHEER PALAKANDI,  
AGED 45 YEARS  
PALAKKANDI HOUSE, NADAKKAVE P.O - 673011,  
KOZHIKODE.
- 8 BINDU  
AGED 45 YEARS  
ANGANWADI WORKER, MALARVADI ANGANVADI, NADAKKAVU,  
KOZHIKODE - 673011.

BY ADVS.  
SUSMITH KUMAR T.D  
C.SIVADAS (K/798/2012)  
T.O.DEEPA (K/180/2008)

**OTHER PRESENT:**

T.K.SHAJAHAN-SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 16.03.2022, THE COURT ON 23.03.2022 DELIVERED  
THE FOLLOWING:

**ANU SIVARAMAN, J.**

**= = = = =**

**W.P.(c).No.6920 of 2022**

**= = = = =**

**Dated this the 23<sup>rd</sup> day of March, 2022**

**JUDGMENT**

1. This writ petition is filed seeking direction to respondents 1 & 2 to afford police protection to the 2<sup>nd</sup> petitioner, his workers, staff, machines & vehicles to carry out the demolition work awarded to him as per Exhibit P3 and as directed by the Government of Kerala in Exhibit P4 & Exhibit P5 and complete the same without any obstruction from the respondents 3 to 8 or any other person."

2. Heard the learned counsel for the petitioners and the learned Government Pleader and the learned counsel appearing for respondents 3 to 8.

3. It is submitted by the learned counsel for the petitioners that the 2<sup>nd</sup> petitioner had been given a contract for demolition of a building of the Government L.P.School, Vellayil East, Kozhikode by tender. It is submitted that on the ground that an Anganwadi is functioning in the open veranda of Block No.2., respondents 3 to 8 are obstructing the demolition of

the said block. It is submitted by the learned counsel for the petitioner that an Anganwadi was functioning in the premises with the knowledge of the Director of Public Instructions, who had passed Exhibit P4 order dated 9.2.2022 directing the demolition work to continue. It is submitted that the demolition is to be completed at the earliest and the reconstruction of the school building is also to commence immediately so that the building will be ready at the earliest. It is submitted that the work of the new building of the school is partially complete and it is only due to the obstruction caused for the demolition of Block No.2 that the reconstruction of the school is being held up.

4.A detailed counter affidavit has been placed on record by respondents 3 to 8. It is contended therein that the Malarvadi Anganwadi Centre No.90 has been functioning in the premises of the Government L.P.School, Vellayil East, Kozhikode pursuant to the permission granted by the erstwhile Headmaster. It is submitted that permissions were granted for the construction of a building for the Anganwadi in the school

premises without transfer of the ownership of the land. It is further submitted that the present building, where the Anganwadi is situated, is not dilapidated and that has all necessary fitness for the conduct of the Anganwadi. It is further stated that the Kozhikode Municipal Corporation had issued Exhibit R7(g) letter to the Headmistress to stop the demolition works, since permission had not been obtained from the Corporation for the same. It is stated that Exhibit R7(h) would show that a letter had been issued by the District Women and Child Development Officer, Kozhikode also seeking stoppage of the demolition. It is submitted that the Resident's Association of the area had also approached the Director General of Education with Exhibit R7(i) representation, which has not been considered so far. It is stated that the permission from the Corporation authorities under the Building Rules as well as NOC from the Railway authorities is mandatory for the demolition.

5. Additional documents have been produced by the petitioners pointing out that the Headmistress had addressed the true

facts before the Police, but that adequate protection has not been granted to the petitioner.

6.I have considered the contentions advanced. It is not in dispute that the property in question is the property of a Government L.P.School. It is also not in dispute that appropriate steps had been taken for the construction of new buildings for the L.P. School and the demolition of the existing dilapidated buildings was necessitated for such construction. The contention of respondents 3 to 8 that permission is necessary for the demolition of the building cannot be accepted in view of the provisions of Rule 5 of the Kerala Municipality Building Rules, 2019 which applies only to persons other than the State or the Central Government.

7.From the materials placed on record, it is clear that the demolition and the reconstruction are being carried out after obtaining due sanctions from the Department of Education on the orders of such department, who is the owner of the property.

8. In the above factual situation, I am of the opinion that the contentions raised by respondents 3 to 8 cannot succeed. The question whether premises are to be allotted to the Anganwadi in the newly constructed building and alternate accommodation of the Anganwadi are matters which have to be taken up by the petitioners with the Deputy Director of Education by the party respondents or the Department of Women and Child Development with the Education Department or the Director General of Public Instructions. The 2<sup>nd</sup> petitioner is the contractor entrusted with the work of demolition of the building for the purpose of reconstruction of the building for the L.P.School. In the light of the documents produced in the writ petition, I am of the opinion that the 2<sup>nd</sup> petitioner is entitled to the Police Protection as sought for.

9. There will, accordingly, be a direction to the Station House Officer to afford due protection as necessary for the 2<sup>nd</sup> petitioner to carry out the demolition works of Block No.2, which has been declared unfit for the conduct of the school.

The reconstruction of the school shall also be proceeded with in accordance with law. The claim of the respondents that space is liable to be allotted for the Anganwady in the L.P. School premises will be considered by the DDE in accordance with law, if it is raised before such authority.

Writ petition is ordered accordingly.

sd/-

**Anu Sivaraman, Judge**

sj



**APPENDIX OF WP(C) 6920/2022**

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ORDER DATED 19.12.2019 OF THE GOVERNMENT OF KERALA,
Exhibit P2	TRUE COPY OF THE ORDER DATED 01.02.2020 OF THE DEPUTY DIRECTOR OF EDUCATION, KOZHIKODE.
Exhibit P3	TRUE COPY OF THE ORDER DATED 10.12.2021 PASSED BY THE HEADMISTRESS, G.L.P.S VELLAYI EAST CONFIRMING THE TENDER GRANTED TO THE 2ND PETITIONER.
Exhibit P4	TRUE COPY OF THE ORDER DATED 09.02.2022 OF THE DIRECTOR OF PUBLIC INSTRUCTIONS.
Exhibit P5	TRUE COPY OF THE ORDER DATED 18.02.2022 OF THE DEPUTY DIRECTOR OF EDUCATION, KOZHIKODE.
Exhibit P6	TRUE COPY OF THE LETTER DATED 28.12.2021 GIVEN BY THE 2ND PETITIONER TO THE HEADMISTRESS, G.L.P.S VELLAYIL EAST.
Exhibit P7	TRUE COPY OF THE LETTER DATED 29.12.2021 GIVEN BY THE 2ND PETITIONER TO THE HEADMISTRESS, G.L.P.S. VELLAYIL EAST.
Exhibit P8	TRUE COPY OF THE COMPLAINT FILED BY THE HEADMISTRESS OF THE GOVERNMENT LP SCHOOL. VELLAYIL TO THE 2ND RESPONDENT SEEKING POLICE PROTECTION
Exhibit P9	TRUE COPY OF THE COMPLAINT FILED BY THE 1ST PETITIONER TO THE 1ST RESPONDENT SEEKING POLICE PROTECTION

Exhibit P10

PHOTOGRAPH OF THE PARTIALLY COMPLETED  
NEW BUILDING OF THE GOVERNMENT LP  
SCHOOL, VELLAYIL

Exhibit P11

PHOTOGRAPH OF THE PORTION OF THE OLD  
SCHOOL BUILDING OF BUILDING AWAITING  
DEMOLITION AND RECONSTRUCTION

/True copy/

PS to Judge