IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 21ST DAY OF FEBRUARY 2024 / 2ND PHALGUNA, 1945

WP(C) NO. 2730 OF 2020

PETITIONERS:

1 RAHIM
S/O. RAWTHER, CHARUVILA VADAKKETHIL VEEDU,
THEKKE MURI, SOORANDU NORTH,
KOLLAM DISTRICT.

2 SHAJAHAN,
S/O. SULAIMAN RAWTHER,
CHARUVILA THEKKETHIL VEEDU,
SOORANADU, KOLLAM.

3 RENJITH,
S/O. MOHANAN, THENGUTHOTTATHIL VEEDU,
SOORANADU NORTH, KOLLAM.

4 NAVAS,
S/O. BASHEER RAWTHER,
NOUSHAD MANZIL, KAMPALADY,
PORUVASHY P.O, KOLLAM DISTRICT.

5 YOUAF SAHIB N.H,
S/O. HANEEFA KANNAN, NOORATHU THEKKETHIL,
THEKKE MURI, SOORANADU NORTH,
KOLLAM.

BY ADV B.KRISHNA MANI

RESPONDENTS:

1 THE DISTRICT COLLECTOR
KOLLAM - 691 001.

2 THE PRESIDENT,
SOORANADU NORTH GRAMA PANCHAYAT,
SOORANADU,
KOLLAM DISTRICT - 690 561.

3 THE SECRETARY,
SOORANADU NORTH GRAMA PANCHAYAT,
SOORANADU, KOLLAM DISTRICT- 690 561.

4 THE REGIONAL TRANSPORT OFFICER,
KUNNATHUR, KOLLAM DISTRICT – 691 013.

5 THE SUB INSPECTOR OF POLICE,
CHAKKUVALLY POLICE STATION,
KOLLAM – 690 013.

6 THE EXECUTIVE ENGINEER,
NATIONAL HIGHWAY AUTHORITY,
THIRUVANANTHAPURAM - 695 001.

7 RAJU P.J,
LOVE DALE, THEKKUMURI,
SOORANADU NORTH POST,
KOLLAM - 690 561.

8 ASHRAF,
KUZHIYILA KIZHAKKATHIL, THEKKUM MURI,
SOORANADU NORTH POST,
KOLLAM - 690 561.

9 RASHEED H.,
KUZHIYATH PADINJATTATHIL,
THEKKUMURI, SOORANADU NORTH POST,
KOLLAM - 690 561.

10 REJI,
RIYAS BHAVANAM, THEKKEMURI,
SOORANADU NORTH P.O,
KOLLAM DISTRICT - 690 561.

11 BABU P.,
CHARUVILA PUTHEN VEEDU,
NADUKEMURI, CHATHAKULAM P.O,
KOLLAM - 690 520.

SRI. B.S SYAMANTHAK – GP
SRI. M. R SASITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

W.P (C). No.2730 of 2020

Dated this the 21st day of February, 2024

JUDGMENT

The above writ petition is filed with the following prayers:-

> *"a) Issue a writ of mandamus or any other appropriate writ, direction or order directing respondents 1 to 6 not to implement Ext.P8 in any manner;*
>
> *b) Issue a writ of mandamus or any other appropriate writ, direction or order directing respondents 1 to 6 to provide a separate parking area to autorickshaws and further direct the respondents 1 to 6 to ensure that no autorickshaws are parked in front of the shops of the petitioners bearing Nos.139, 145, 146, 147 and 148 respectively located in Ward No.VIII of Sooranadu North Panchayat and by the side of the National Highway 183." [SIC]*

2. The 5th petitioner is the owner of shop rooms along with a residential house situated on the side of Kollam – Theni National Highway 183 in Thekkemuri High School Junction in Sooranadu North Panchayat, Kollam. It is submitted that he has let out

four shop rooms to petitioners 1 to 4. In the 5th shop room he is conducting a business. The above building is located by the side of National Highway 183. According to the petitioners, the autorickshaws are being parked in front of the shop rooms thereby paralyzing the entire business in the shops. Ext.P1 has been filed before the District Collector, Kollam pointing out the unauthorised parking of autorickshaws in front of the aforementioned shops is the further submission. No steps are being taken to prevent unauthorised parking which causes innumerable difficulties to the petitioners and the customers is the further submission. The petitioners had approached this Court earlier leading to Ext.P2 judgment.

3. After Ext.P2 judgment, some autorickshwa drivers and owners approached this Court leading to Ext.P7 judgment. In terms of Ext.P7 judgment, a meeting of the Traffic Regulatory Authority was

convened. The decision thereon in terms of Ext.P8 in no way removes the blockage caused by the parking of autorickshaws in front of the shop rooms of the petitioners and the side of the National Highway is the submission. It is mentioned in Ext.P8 that a gap of 1.75 meters will be maintained between each authorickahwas. The same will not solve the problem of illegal parking of autorickshaws in front of the shop rooms of the petitioners and the blockage is the submission. There is violation of the provisions of the Kerala Panchayat Raj Act (for short, 'the Act') is the submission. The petitioners rely on Section 227 of the Act and also the judgment of this Court dated 09.09.2021 in W.P.(C) No.6488 of 2020. Hence this writ petition is filed.

4. Heard the learned counsel for the petitioner, the learned counsel for respondents 2 and 3 and the learned Government Pleader.

5. This Court perused Ext.P8 order. Ext.P8 is a

proceedings of the Traffic Advisory Committee. As per Ext.P8, certain arrangement is made as far as the parking of autorickshaws are concerned. It is a fact that the petitioners also a signatory in Ext.P8. But the grievance of the petitioner is that Ext.P8 is not a solution to the unauthorised parking of the autorickshaws in front of the building. The petitioners are relying on Section 227 of the Act.

6. The learned counsel appearing for the Panchayat concedes that the place in front of the petitioners building is not a parking place allotted to the autorickshaws. If that is the case, the unauthorised parking of autorickshwas is to be restricted by the Traffic Regulatory Authority. As long as the front side of the petitioners building is not a parking space, the parking of autorickshwas is unauthorised. There cannot be any agreement to park vehicles in an unauthorised space by the Traffic Regulatory Authority. Therefore, I am of the

considered opinion that this matter is to be reconsidered by the Traffic Regulatory Authority. Eventhough notice is issued to the party respondents, there is no appearance for the party respondents.

7. In such circumstances, I am of the considered opinion that if the front portion of the petitioners building is not a parking space allotted by the Grama Panchayat as per Section 227 of the Act, the Traffic Regulatory Committee shall make alternative arrangement for the parking of the autorickshaws.

Therefore, this writ petition is disposed of with following directions:

1. The Traffic Regulatory Committee shall make alternative arrangements for parking the autorickshaws after getting report from the Panchayat about the autorickshaw stand, as expeditiously as possible, at any

rate, within a period of one month from the date of receipt of a copy of this judgment.

2. The petitioners shall produce a certified copy of the judgment along with a copy of this writ petition with exhibits before the Traffic Regulatory Committee for compliance.

Sd/-

P.V.KUNHIKRISHNAN
JUDGE

SPR

APPENDIX

PETITIONER'S ANNEXURES:-

EXHIBIT P1	TRUE COPY OF THE RELEVANT PORTION OF W.P(C) NO. 13558/2018 DATED 11/4/2018 BEFORE THE HON'BLE HIGH COURT OF KEREALA, ERNAKULAM.
EXHIBIT P2	TRUE COPY OF THE JUDGMENT DATED 27/4/2018 IN W.P(C) NO. 13558/2018 BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.
EXHIBIT P3	TRUE COPY OF THE JUDGMENT DATED 30/10/2018 IN C.C. NO. 1477/2018 BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.
EXHIBIT P4	TRUE COPY OF THE ORDER DATED 17/10/2018 PASSED BY THE DISTRICT COLLECTOR ALONG WITH ENGLISH TRANSLATION.
EXHIBIT P5	TRUE COPY OF THE RELEVANT PORTION OF W.P(C) NO. 35375/2018 DATED 28/10/2018 BEFORE HON'BLE HIGH COURT OF KERALA, ERNAKULAM
EXHIBIT P6	TRUE COPY OF THE COUNTER AFFIDAVIT DATED 5/4/2019 IN W.P(C) NO. 35375/2018 BEFORE HON'BLE HIGH COURT OF KERALA, ERNAKULAM
EXHIBIT P7	TRUE COPY OF THE JUDGMENT DATED 7/11/2019 IN W.P(C) NO. 35375/2018 BEFORE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.
EXHIBIT P8	TRUE COPY OF THE PROCEEDING DATED 16/12/2019 ALONG WITH ENGLISH TRANSLATION.
EXHIBIT P9	TRUE COPY OF THE PHOTOGRAPH.
EXHIBIT P10	A TRUE COPY OF THE PHOTOGRAPH
EXHIBIT P11	A TRUE COPY OF THE PHOTOGRAPH
EXHIBIT P12	A TRUE COPY OF THE PHOTOGRAPH

RESPONDENTS EXHIBITS: NIL.