

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 2ND DAY OF AUGUST 2023 / 11TH SRAVANA, 1945

WP(C) NO. 3005 OF 2023

PETITIONERS:

- 1 SHYJU MATHEW,
AGED 39 YEARS,
S/O SOSAMMA MATHAI,
PEARL VILLA,
ELLAMBAL P.O.,
VILAKUDY,
KOLLAM DISTRICT, PIN - 691322
- 2 LINDA P. AUGUSTINE,
AGED 33 YEARS,
W/O SHYJU MATHEW,
PEARL VILLA,
ELLAMBAL P.O.,
PUNALUR,
KOLLAM DISTRICT, PIN - 691322

BY ADVS.
P.MARTIN JOSE
P.PRIJITH
THOMAS P.KURUVILLA
R.GITESH
AJAY BEN JOSE
MANJUNATH MENON
SACHIN JACOB AMBAT
ANNA LINDA EDEN
HARIKRISHNAN S.
S.SREEKUMAR (SR.)

RESPONDENTS:

- 1 THE TRIBUNAL FOR LOCAL SELF GOVERNMENT
INSTITUTIONS,
CHALAKUZHAY ROAD,
CHALAKUZHAY,
THIRUVANANTHAPURAM, PIN - 695011
- 2 THE SECRETARY,
PUNALUR MUNICIPALITY,
MUNICIPAL BUILDING, PUNALUR,
KOLLAM DISTRICT, PIN - 691305

3 LIFE INSURANCE CORPORATION OF INDIA,
 DIVISIONAL OFFICE, THIRUVANANTHAPURAM,
 (REPRESENTED BY ITS MANAGER (L & HPF) ,
 LIC OF INDIA, DIVISIONAL OFFICE,
 THIRUVANANTHAPURAM DISTRICT, PIN - 695001

BY ADVS.

SRI.MANOJ RAMASWAMY, SC, PUNALUR MUNICIPALITY
SRI.S.EASWARAN, SC, LIC
SMT.SMT.DEEPA N., SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02.08.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J U D G M E N T

Dated this the 2nd day of August, 2023

The counsel for the petitioners and the counsel representing the 3rd respondent submitted that they have arrived at a mediation settlement during the pendency of the writ petition. The Mediator, Ernakulam Mediation Centre has filed terms and conditions of Memorandum of Agreement executed on 22.06.2023.

2. The order of the Tribunal for Local Self Government Institutions will stand accordingly modified in tune with the Memorandum of Settlement. The Municipal authorities will be at liberty to consider Occupancy Certificate application that may be submitted by the petitioners in accordance with the Kerala Municipal Building Rules, after construction of the building.

In view of the Memorandum of Settlement, the writ petition is disposed of confirming the said Agreement. The Memorandum of Agreement shall be treated as part of this judgment.

**Sd/-
N. NAGARESH
JUDGE**

SSS

APPENDIX OF WP(C) 3005/2023

PETITIONERS' EXHIBITS

EXHIBIT1	TRUE COPY OF THE GAZETTE NOTIFICATION VIDE G.O. (MS) NO.111/86/LAD DATED 13.06.1986.
EXHIBIT P2	TRUE COPY OF THE PROPOSED LAND USE MAP OF THE DTP SCHEME.
EXHIBIT P3	TRUE COPY OF THE BUILDING PERMIT DATED 17.06.2021 ALONG WITH THE APPROVED PLAN.
EXHIBIT P4	TRUE COPY OF FIRE AND RESCUE SERVICES, GOVERNMENT OF KERALA HAD ISSUED NOC BEARING NO.B1673/21 DATED 28.04.2021.
EXHIBIT P5	TRUE COPY OF THE PHOTOGRAPHS SHOWING THE BUILDING OF THE 3RD RESPONDENT.
EXHIBIT P6	TRUE COPY OF THE APPEAL MEMORANDUM IN APPEAL NO.418 OF 2022 OF THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.
EXHIBIT P7	TRUE COPY OF THE COUNTER STATEMENT FILED BY THE 2ND RESPONDENT BEFORE THE TRIBUNAL.
EXHIBIT P8	TRUE COPY OF THE WRITTEN STATEMENT DATED 19.07.2022 FILED BY THE PETITIONERS.
EXHIBIT P9	TRUE COPY OF THE ORDER DATED 23.11.2022 IN APPEAL NO.418 OF 2022 OF THE LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

RESPONDENT EXHIBITS

EXHIBIT R3 (A)	TRUE COPY OF VILLAGE TAX RECEIPT DATED 12.04.2022.
EXHIBIT R3 (B)	TRUE COPY OF THE BUILDING PERMIT RECEIVED BYB THE LIC OF INDIA UNDER RIGHT TO INFORMATION ACT.
EXHIBIT R3 (C)	TRUE COPY OF GAZETTE NOTIFICATION DATED 2ND NOVEMBER,2019.
EXHIBIT R3 (D)	TRUE COPY OF PHOTOGRAPH.
EXHIBIT R3 (E)	TRUE COPY OF PHOTOGRAPH.
EXHIBIT R3 (F)	TRUE COPY OF PHOTOGRAPH.
EXHIBIT R3 (G)	TRUEC OPY OF THE REQUEST OF THE PETITIONERS DATED 20.05.2022.
EXHIBIT R3 (H)	TRUE COPY OF THE DTP SCHEME FOR K.S.R.T.C BUS STAND AND ENVIRONS IN PUNALUR TOWN DATED 13.06.1986.
EXHIBIT R3 (I)	TRUE COPY OF COMPLAINT FILED BEFORE THE SECRETARY,PUNALUR MUNICIPALITY DATED 08.04.2022.
EXHIBIT R3 (J)	TRUE COPY OF COMPLAINT FILED BEFORE THE SECRETARY,PUNALUR MUNICIPALITY DATED 12.04.2022.

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM**

WP(C) No.3005 of 2023


Shyju Mathew & Anr : Petitioners

Vs.

The Tribunal For Local Self Govt Institutions & Others : Respondents

**MEMORANDUM OF AGREEMENT UNDER SECTION 89 OF THE CODE
OF CIVIL PROCEDURE READ WITH RULES 24 & 25 OF THE CIVIL
PROCEDURE (ALTERNATIVE DISPUTE RESOLUTION), RULES, 2008:**

1. Petitioners have agreed that they shall reposition all columns along LIC boundary and bring them at 1.0 M position from compound wall from Ground floor onwards-by making necessary structural modifications for shifting as shown in their revised structural drawing (copy enclosed) to be signed by Petitioners & their Structural Engineer.
2. It is also agreed by Petitioners that only in cellar, side set-back open space may remain with 0.6 M as exists now and from Ground floor onwards, side open space shall be 1.0M from LIC compound wall.
3. All columns in cellar along LIC boundary will have increased size as required for the modification and shall be suitably redesigned to ensure structural stability & other structural design requirement - as shown in their drawing and at their risk & cost.
4. The 3rd Respondent Life Insurance Corporation Of India has agreed that once columns are positioned with 1.0 m side set-back area, windows can be provided within permissible limit as per existing approved plan.

1. 

2. 

K.erala State Mediation and Conciliation Centre
High Court of Kerala
Kochi - 682 031


UMA.S
Assistant Secretary (Legal)

5. The already damaged portion of the compound wall of 3rd Respondent (LIC) shall be reconstructed/rectified by the Petitioners at their own cost and in consultation with LIC of India.

6. In compliance with municipal approved plan, to protect the existing neighboring compound wall of the 3rd Respondent (LIC's) on the front side, the petitioner shall construct RCC retaining wall along our compound wall up to the extent required & as shown in the approved plan at their cost.

7. Petitioner shall also give an undertaking to reconstruct/set right at their cost if any further damages occurs to LIC compound wall in future, during the course of their construction activities.

8. The petitioners agree to provide GI Sheet barricade for the proposed building (on LIC side) within their set-back area during the course of construction.

9. However, it shall be the responsibility of the Petitioner to abide by statutory requirements for any further rectification measures at their cost.

In default of compliance of any conditions above mentioned, both the parties have the liberty to move appropriate petitions before the court of Law.

Dated this the 22nd day of June, 2023.

Petitioners

1. Shyju Mathew

2. Linda P. Augustine

3rd Respondent

For LIC, Divisional Office
Rep by its Manager (L & HPF)

UMA.S
Assistant Secretary (Legal)

Counsel for the Petitioners
HARIKRISHNAN.S.
(K/497/2019)

Counsel for the 3rd Respondent

Kerala State Mediation and Conciliation Centre
High Court of Kerala
Kochi - 682 031