

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 24<sup>TH</sup> DAY OF JUNE 2024 / 3RD ASHADHA, 1946

WP(C) NO. 13591 OF 2023

PETITIONER/S:

- 1 KARUVOTH PARIYAYI,  
AGED 60 YEARS  
S/O. AHAMMED HAJI, KANNANKANDY HOUSE, MCHULLIYOD ROAD, CIVIL  
STATION P.O, KOZHIKODE, PIN - 673020
- 2 SHAIFU NISAR,  
AGED 48 YEARS  
S/O. KUNHABDULLA, THAIKKANDI HOUSE, NARIPPATTA P.O,  
KOZHIKODE, PIN - 673507
- 3 SIKHA SIVADAS P,  
AGED 32 YEARS  
D/O. SIVADASAN P, KALATHINGAL, RAMANTTUKARA, FEROKE COLLEGE  
VIA, KOZHIKODE, PIN - 673533
- 4 IBRAHIM KUTTY. P,  
AGED 73 YEARS  
S/O. KUNHI MOIDEENKUTTY, PALAKKAL, KOMMUNDATTU,  
VELLIPPARAMBU, KUTTIKKATTOOR, KOZHIKODE, PIN - 673008
- 5 CHANDRIKA K,  
AGED 54 YEARS  
W/O. SUGATHAN, NANDANAM, MELE NANDANATH PARAMBIL,  
NADAPPALAM, MUNDIKKALTHAZHAM, MAYANADU P.O, CHELAVUR,  
KOZHIKODE, PIN - 673008  
  
BY ADVS.  
S.K.SAJU  
PRANAV

RESPONDENT/S:

- 1 THE KOZHIKKODE MUNICIPAL CORPORATION,  
REPRESENTED BY ITS SECRETARY, NEAR AKASHVANI,

KOZHIKKODE, KOZHIKKODE DISTRICT, PIN - 673001

- 2 THE EXECUTIVE ENGINEER,  
ROADS DIVISION, OFFICE OF THE EXECUTIVE ENGINEER, PUBLIC  
WORKS DEPARTMENT, KOZHIKKODE DISTRICT, PIN - 673104
- 3 THE INSPECTOR OF POLICE,  
MEDICAL COLLEGE POLICE STATION, KOZHIKKODE, KOZHIKKODE  
DISTRICT, PIN - 673008
- 4 ADDL.R4. SRI.PRASAD,  
NEAR KALARI BUS STOP, MAYAND P.O, OZHUKKARA, KOZHIKKODE  
DISTRICT, PIN 673 008 [IS IMPEADED AS ADDL.R4 AS PER ORDER  
DATED 27.06.2023 IN I.A.1/2023 IN WP(C)13591/2023].
- 5 ADDL.R5. CHIEF EXECUTIVE OFFICER,  
KERALA ROAD FUND BOARD, BSNL TOWER, PMG JUNCTION,  
THIRUVANANTHAPURAM, PIN 695 033 [ADDL.R5 IS IMPEADED AS PER  
ORDER DATED 30.11.2023 IN I.A.3/2023 IN WP(C)13591/2023].

BY ADVS.

G.SANTHOSH KUMAR (P)

SHRI.K.V.MANOJ KUMAR, SC, KERALA ROAD FUND BOARD

E.ADITHYAN

MEERA RAMESH

SHARAN PREM

TREESA MANJILA

NESAMUDHEEN

MRUDULA MOHAN

SRI.V.KRISHNA MENON, SC, SMT.PREETHA K.K., SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
24.06.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**MOHAMMED NIAS C.P., J.**

.....  
**W.P(C) No. 13591 of 2023**  
.....

Dated this the 24<sup>th</sup> day of June, 2024

**JUDGMENT**

The petitioners 1 to 4 are running a medical lab and medical shops while the 5<sup>th</sup> petitioner is running a stationery shop in the building constructed in Sy. No.40/39 of Chelavoor Village in Kozhikode Taluk. Exts.P1 to P5 are the licence deeds executed between them and the building owner. Exts. P6 to P8 are the trade licences issued to the petitioners. The grievance of the petitioners is that they are prevented from doing their business on account of a bunk shop installed by the additional 4<sup>th</sup> respondent in front of their shops preventing access and also the parking of the vehicles.

2. A counter affidavit has been filed on behalf of the Corporation wherein it is stated that they had not given any consent or licence to put up any temporary shed on either side of the road or in front of the shopping complex where the petitioners are running their business or in the property of PWD. It is also submitted by the Corporation that the land on which the bunk is put belongs to the additional 5<sup>th</sup> respondent, the Kerala Road Fund Board.

3. The additional 4<sup>th</sup> respondent has filed a statement contending that they have put up a small bunk without causing any difficulties to the petitioners and that the bunk has been in the same location for a very long time. It is also stated that they had preferred Ext.R4(a) application seeking for a licence before the Corporation. It is also submitted that the income from the bunk shop is the only

source of income for a family consisting of an old-aged mother, wife and two school-going daughters.

4. I have heard the learned counsel for the petitioners and the learned counsel appearing for the respondents.

After hearing both sides and taking note of the averments of the Corporation that the additional 4<sup>th</sup> respondent has installed the bunk without any licence and that the property on which the bunk is situated belongs to the Kerala Road Fund Board, it has to be held that the additional 4<sup>th</sup> respondent is in illegal occupation. It will be open to respondents 1, 2 and the additional 5<sup>th</sup> respondent to take appropriate steps against the additional 4<sup>th</sup> respondent for removing the structure from the place where it is currently situated. However, taking note of the contention of the additional 4<sup>th</sup> respondent that he has made an application to the Corporation seeking a licence, Ext.R4(a), the 1<sup>st</sup> respondent Corporation is directed to consider the same and pass appropriate orders so as to accommodate the additional 4<sup>th</sup> respondent in a location which does not cause inconvenience to anyone. The Corporation shall consider the same within four weeks from today. The action for removal of the bunk shall be taken only after the Corporation passes orders as directed above.

The writ petition is disposed of as above.

Sd/-

**MOHAMMED NIAS C.P.  
JUDGE**

okb/

//True copy//  
P.S. to Judge

APPENDIX OF WP(C) 13591/2023**PETITIONER EXHIBITS**

- Exhibit P1** A TRUE COPY OF THE LICENSE DEED DATED 07.03.2017 ENTERED INTO BETWEEN THE BUILDING OWNER AND THE 1ST PETITIONER
- Exhibit P2** A TRUE COPY OF THE LICENSE DEED DATED 05.10.2019 ENTERED INTO BETWEEN THE BUILDING OWNER AND THE 2ND PETITIONER
- Exhibit P3** TRUE COPY OF THE LLP AGREEMENT DATED 03.12.2022 WHEREIN THE 3RD PETITIONER IS A PARTY
- Exhibit P4** A TRUE COPY OF THE LICENSE DEED DATED 01.03.2023 ENTERED INTO BETWEEN THE BUILDING OWNER AND ONE OF THE PARTNERS IN EXT P3
- Exhibit P5** A TRUE COPY OF THE LICENSE DEED DATED 05.11.2022 ENTERED INTO BETWEEN THE BUILDING OWNER AND THE 4TH PETITIONER
- Exhibit P6** A TRUE COPY OF THE TRADE LICENSE DATED 15.04.2020 ISSUED BY THE 1ST RESPONDENT TO THE 5TH PETITIONER
- Exhibit P7** A TRUE COPY OF THE TRADE LICENSE DATED 05.08.2019 ISSUED BY THE 1ST RESPONDENT TO THE 1ST PETITIONER
- Exhibit P8** A TRUE COPY OF THE TRADE LICENSE DATED 19.11.2020 ISSUED BY THE 1ST RESPONDENT TO THE 2ND PETITIONER
- Exhibit P9** TRUE COPIES OF THE PHOTOGRAPHS SHOWING THE INSTALLATION OF THE TEMPORARY BUNK SHOP IN FRONT OF THE BUILDING OF THE PETITIONER
- Exhibit P10** A TRUE COPY OF THE JUDGMENT DATED 21.12.2021 IN WPC 26603/2021
- Exhibit P11** A TRUE COPY OF THE PETITION DATED 17.04.2023 SUBMITTED BY THE PETITIONERS BEFORE THE RESPONDENTS

**RESPONDENT EXHIBITS**

- Exhibit R4 (a)** THE COPY OF THE RECEIPT DATED 18-11-2021 ISSUED BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT UPON APPLYING FOR THE LICENSE IS ATTACHED HERE AS EXHIBIT R4 (A)