

(2015) 03 KL CK 0154

In the High Court Of Kerala

Case No : Writ Petition (C). No. 22146 of 2014 (P)

Orchard Apartment Owners Association

APPELLANT

Vs

Kerala Water Authority and Others

RESPONDENT

Date of Decision : 05-03-2015

Acts Referred:

Citation : (2015) 4 KHC 599

Hon'ble Judges : K. Harilal, J

Bench : Single Bench

Advocate : Santhosh Mathew, Sathish Ninan, Arun Thomas and Jennis Stephen, for the Appellant; George Mathew, SC, Advocates for the Respondent

Final Decision : Disposed off

Judgement

K. Harilal, J.

1. The petitioner herein is the Registered Association of the residents of 135 flats in Mather Orchard in Vidyanagar, Kadavanthra. For 135 apartments, only two domestic connections have been provided by the 1st respondent. Due to this, a large amount is being spent by the petitioner Association for purchasing water, by way of tanker lorries, from private suppliers by paying exorbitant amounts. The petitioner Association is ready and willing to meet the expenses for laying separate pipes from the main pipe line passing through the "Uvajanasamajam road" to ensure that there is adequate and uninterrupted supply of water to the residents in the apartments continuously. The respondents have not provided with the connection facility as contemplated under Rule 7(g) of the Water Authority (Water Supply) Regulations, 1991 (in short, the Regulations). But, now Exts.P1 and P2 demand notices have been issued by the Water Authority to the members of the petitioner Association to remit the connection fee at the rate of Rs. 550/- per flat.

2. According to the petitioner, unless the connection facility is provided as contemplated under Rule 7(g) of the Regulations, the respondents are not

entitled to realise the connection fee from each flat owners. Therefore, the proceedings of the respondents demanding connection fee at the rate of Rs. 550/- per dwelling unit after providing only two water connections with 25 mm pipe is arbitrary and illegal. In the above circumstances, the writ petition is filed with the following prayers:

"(i) To issue a writ of mandamus or any other appropriate writ or order, commanding the respondents to grant 135 residential connections to the members of the Petitioner Association before collecting connection fee for the 135 dwelling units @ Rs. 550/- per apartment;

(ii) To issue a writ of mandamus or any other appropriate writ or order, commanding the respondents to provide a dedicated pipe line with sufficient width from the main water pipe line passing through the Uvajanasamajam Road, to ensure adequate supply of water to the 135 members of the Petitioner Association residing in Mather Orchards;

(iii) To issue such other appropriate writ or order or direction which this Hon"ble Court may deem fit and just under the circumstances of the case."

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

4. The learned counsel for the petitioner submits that the members of the petitioner Association is ready and willing to pay the connection fee individually if they are provided with water connection as contemplated under Rule 7(g) of the Regulations. But, unless the said facility is provided, they are not liable to pay the connection fee for each dwelling house.

5. The learned Standing Counsel, on instructions, submits that the water connection facility has not been provided as contemplated under Regulation 7(g), but now, all the flat owners are using water from the two connections provided to them.

6. Per contra, the learned counsel for the petitioner submits that two connections through a 25 mm pipe line is given to each block for all the 135 dwelling units, whereas individual houses are also giving the same connection by the respondents. The action of the respondents in demanding connection fee for all 135 apartments without providing sufficient number of water connections to cater the needs of 135 dwelling houses is unsustainable.

7. Going by the rival submissions made at the Bar, it is not disputed that the respondents have not provided connection facility as provided under Rule 7(g) of the Water Authority (Water Supply) Regulations, 1991. The said undisputed fact shows that now the apartments are not provided with adequate water connections as provided under Rule 7(g) of the Regulations. If that be so, I am of the opinion that the respondents are not entitled to realise water connection fee from each apartments before providing connection facility as required under Rule 7(g) of the Regulations. It is also pertinent to note that the petitioner has

submitted that they are ready and willing to pay water connection fee for each apartments, if they are provided with connection facilities as provided under Rule 7(g) of the Regulations.

8. In the above view, I am of the opinion that the demand under Ext.P1 and P2, before providing water connection as provided under Regulation 7(g), is illegal, arbitrary and unsustainable.

9. In the result, the respondents are directed to provide pipeline with sufficient width from the main water pipeline passing through the Uvajanasamajam road to 135 dwelling units in the Mather Orchards, before collecting connection fee under Exts.P1 and P2, at any rate within a period of two months from the date of receipt of a copy of this judgment.

10. It is made clear that the respondents can realise connection fee from each apartments after providing the connection facility as required under Rule 7(g) of the Regulations.

The writ petition is disposed of as above.