

(2014) 06 KL CK 0049
In the High Court Of Kerala
Case No : WP(C). No. 11669 of 2011(G)

P. Mohanan Pillai	Vs	APPELLANT
The Manickal Grama Panchayat		RESPONDENT

Date of Decision : 10-06-2014

Acts Referred:

Kerala Panchayat Raj Act, 1994 — Section 254

Citation : (2014) 06 KL CK 0049

Hon'ble Judges : A.V. Ramakrishna Pillai, J

Bench : Single Bench

Advocate : V.G. Arun, Sri T.R. Harikumar and Smt. V.P. Sathi, Advocate for the Appellant; Noushad Thottathil, Government Pleader for R2 and Sri Saju S.A., SC, Advocate for R-1, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

A.V. Ramakrishna Pillai, J.—The petitioner has approached this Court seeking positive directions to respondents 1 to 2 to take appropriate action for removing the unauthorised parking of vehicles in front of the petitioner's building forthwith.

2. The petitioner is the owner of 6.5 cents of land lying on the side of M.C. Road at Pirappancode junction. According to him, there is an area between the footpath and his building extending up to the road margin. The ground portion of the building has been let out for commercial purpose and certain shops were also presently working there. The rest of the building is used for residential purposes.

3. The petitioner alleges that respondents 3 and 4 and certain other persons are parking their three wheelers in front of the building thereby causing obstruction and blocking the entrance to the petitioner's building. According to him, such parking is absolutely illegal and without any sanction from the Panchayat or Regional Transport Authority. The petitioner was given to understand that it is not an approved parking area and no consent has been given by the Panchayat. Though the petitioner made a request before the second respondent pointing out

the parking done by respondents 3 and 4, no action has been taken. It is in this context, the petitioner has come up before this Court.

4. Though notice was served on the respondent Panchayat, they did not file any counter affidavit.

5. Arguments have been heard.

6. According to the petitioner, he made a request to the respondent Panchayat pointing out the unauthorised parking of autorickshaws. According to the petitioner, the same being a land abutting the building, nobody has any authority to park vehicles there, as the same would cause obstruction to the ingress and egress.

7. From Ext. P2 it is revealed that no sanction has been obtained from the first respondent and, therefore, parking of the vehicles in front of the petitioner's building is liable to be recovered invoking the powers u/s 254 of the Panchayat Raj Act. Moreover, Rule 6 of the Panchayat Raj (Landing Places, Halting Places, Card Stands and other Vehicle Stands) Rules, 1995 (Kerala) supports that a minimum of 1.5 meters beyond tarred margin of road is to be left for pedestrian traffic throughout State. The specification of 1.5 meters beyond the tarred margin has to be maintained whether it is a panchayat area or any urban area. Therefore, this Court in Chandran Vs. District Collector, observed that unauthorised erection of sign boards as autorickshaw stands and taxi stands by the Unions should not detract the police from plucking it out and facilitate pedestrian traffic for the public.

8. Viewed in that profile, the parking of three wheelers in front of the petitioner's building causing obstruction and blocking entrance is illegal and the first respondent Panchayat is the statutory authority to remove the same with instructions.

Therefore, the Writ Petition is disposed of directing the first respondent to remove that obstruction caused by the parking of the three wheelers and other vehicles in front of the petitioner's building. If the first respondent finds it difficult in implementing the same, they shall be at liberty to seek assistance of the second respondent who shall give assistance for the same.