

Kerala High Court

Thessiamma Varghese vs State Of Kerala Represented By Its on 17 October, 2006

IN THE HIGH COURT OF KERALA AT ERNAKULAM

OP No. 12906 of 2003(J)

1. THESSIAMMA VARGHESE

... Petitioner

Vs

1. STATE OF KERALA REPRESENTED BY ITS

... Respondent

2. CORPORATION OF KOCHI, REPRESENTED BY

For Petitioner :SRI.DENIZEN KOMATH

For Respondent :SRI.K.R.SUNIL

The Hon'ble MR. Justice KURIAN JOSEPH

Dated :17/10/2006

O R D E R

KURIAN JOSEPH, J.

O.P.No.12906 OF 2003

Dated this the 17th October, 2006

J U D G M E N T

The writ petition is filed with the following prayers:-

i) To call for the entire records pertaining to the issuance of Exts.P2 and P5 impugned orders, and issue a writ of certiorari, any other order, writ or direction, to quash the same.

ii) Issue a writ of mandamus, any other order, writ or direction, directing the respondents herein to regularise the alleged unlawful construction of this petitioner, in accordance with the Kerala Municipality Act & Rules.

iii) Issue a writ of prohibition, prohibiting the respondents, from initiating any action to demolish any part or portion of petitioner's residential building.

There is already an interim order in C.M.P.No.21936/2003.

It is seen from the impugned Ext.P5 order that the petitioner is willing to demolish the alleged unauthorised construction as and when steps are taken for widening of the road. It is also seen from the impugned proceedings that she is living with his mentally ill son. There is no counter affidavit. Petitioner undertakes that as and when the space is required for widening the road, the disputed unauthorised construction will be unconditionally demolished by her. This writ petition is disposed of making it clear that as and when steps are taken for widening the road, in case the petitioner does not demolish the unauthorised construction, it will be open to the respondents to demolish the same. Till such time there shall be no further steps pursuant to Ext.P5.

(KURIAN JOSEPH, JUDGE) ps KURIAN JOSEPH, J.

O.P.No.12906/2003 JUDGMENT 17th October, 2006