

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR. JUSTICE P.G. AJITHKUMAR

WEDNESDAY, THE 4TH DAY OF MAY 2022 / 14TH VAISAKHA, 1944

WA NO. 548 OF 2022

AGAINST THE ORDER IN WP(C) 7197/2022 OF HIGH COURT OF KERALA

APPELLANT:

UMA MURTHI
AGED 52 YEARS
D/O.S.MAHALINGAM, PERMANENTLY RESIDING AT HOUSE
NO.2/80, NEW NUMBER 6/69, WARD NO.1, BLOCK NO 46,
GOVINDARAJAPURAM VILLAGE, PALAKKAD DISTRICT-678 003,
KERALA STATE.

BY ADV UMA MURTHI (Party-In-Person)

RESPONDENTS:

- 1 THE STATE OF KERALA
DULY REPRESENTED BY THE SECRETARY, DEPARTMENT OF LOCAL
SELF GOVERNMENT, SECRETARIAT NORTH BLOCK, ROOM NO.149,
THIRUVANANTHAPURAM-695 001, KERALA STATE.
- 2 THE CHIEF TOWN PLANNER AND MEMBER SECRETARY
ART AND HERITAGE COMMISSION, SWARAJ BHAVAN, 2 AND 3RD
FLOOR, NANTHANCOD, KAWADIAR P.O., THIRUVANANTHAPURAM-
695 003, KERALA STATE.
- 3 THE SECRETARY
PALAKKAD MUNICIPALITY, MUNICIPAL BUILDINGS, PALAKKAD-
678 001, KERALA STATE.
- 4 THE DISTRICT TOWN PLANNER
DISTRICT TOWN AND COUNTRY PLANNING OFFICE, CIVIL
STATION, PALAKKAD-678 001, KERALA STATE.
- 5 P.K.BALAKRISHNAN
1/729, OLD KALPATHY, PALAKKAD-678 003.

- 6 LATHA B.
W/O. P.K.BALAKRISHNAN, 1/729, OLD KALPATHY, PALAKKAD-
678 003.
- 7 THE DISTRICT COLLECTOR
CIVIL STATION, PALAKKAD-678 001, KERALA STATE.
- 8 REVENUE DIVISIONAL OFFICER
REVENUE DIVISIONAL OFFICE, PALAKKAD-678 001, KERALA
STATE.
- 9 BABU R.
OVERSEER AND MUNICIPAL ENGINEER, PALAKKAD MUNICIPALITY,
MUNICIPAL BUILDINGS, PALAKKAD.

BY ADV V.MIDHUN SREE MOHAN

By Binoy Vasudevan

SR.GP-JUSTIN JACOB

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 04.05.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Devan Ramachandran, J.

Smt.Uma Murthi - the appellant appearing in person, alleges that the learned Single Judge has erred in disallowing her request for appointment of an Advocate Commissioner to ascertain the damage caused on account of the offending structure being constructed by the party respondents.

2. However, we notice from the impugned order that the learned Single Judge has rightly found that under Rule 10 (12) of the Kerala Municipality Building Rules (KMBR), a Technical Expert Committee is statutorily vested with the authority to verify and report about these aspects; and therefore,

do not deem it necessary or apposite to intervene with the said order.

3. That said, we are cognizant that the apprehension of Smt.Uma Murthi - petitioner appearing in person, is that there are certain issues which only herself, or an engineer of her choice, can point out to the Technical Expert Committee.

4. Sri.Binoy Vasudevan - learned Standing Counsel appearing for the Municipality, in response, submitted that the petitioner has already been offered the opportunity to be present when the Technical Expert Committee does its inspection on 06.05.2022 and this is affirmed by the learned counsel for the party respondents also.

5. We, therefore, are of the firm view that though this appeal cannot be entertained or allowed by this Court, it will be just and proper that the petitioner be allowed to be assisted by an Engineer of her choice; however, making it clear that the said person cannot in any manner intervene with the investigation or enquiry by the Statutory Committee, but can only assist the petitioner, who can then put forth all her suggestions before the said Committee.

6. We make it clear that if the petitioner makes any such suggestions, assisted by the person of her choice, the same shall be reflected in the final report of the Committee, so that it can then be

taken into account by the learned Judge,
while the writ petition is disposed of.

Needless to say, all the other
contentions of the parties are left open,
without being considered in any manner in
this Appeal.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

Sd/-

P.G. AJITHKUMAR

JUDGE

APPENDIX OF WA 548/2022

PETITIONER'S ANNEXURES

Annexure A1	TRUE COPY OF I.A.NO.2 OF 2022 IN W.P.(C) NO.7197 OF 2022.
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Annexure A2	TRUE COPY OF NOTICE DATED 27.04.2022.
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