



2025:KER:79709

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR.JUSTICE SYAM KUMAR V.M.

SATURDAY, THE 25TH DAY OF OCTOBER 2025 / 3RD KARTHIKA, 1947

WA NO.939 OF 2023

ARISING OUT OF THE JUDGMENT DATED 10.04.2023 IN WP(C)
NO.23932/2021 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

BOSCO LOUIS
AGED 38 YEARS
S/O.K.A.LOUIS, KARUNAN NIVAS, VIDAkkUZHA,
THAIKKATTUKARA P.O., N.A.D.GATE,
KALAMASSERY, ERNAKULAM, PIN - 683106

BY ADV.SRI.JACOB MATHEW

RESPONDENTS/RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
TRIVANDRUM, PIN - 695001
- 2 THE SECRETARY,
KALAMASSERY MUNICIPALITY
BPO, CHANGAMPUZHA NAGAR, THIRUNILATH HOUSING
COLONY, SOUTH KALAMASSERY, KALAMASSERY,
ERNAKULAM, PIN - 682033
- 3 LULU INTERNATIONAL SHOPPING MALL PVT. LIMITED
REPRESENTED BY ITS DIRECTOR, 34/1000 NH 47,
EDAPPALLY, ERNAKULAM, PIN - 682024



2025:KER:79709

4 STATION HOUSE OFFICER
KALAMASSERY POLICE STATION,
ERNAKULAM, PIN - 682033

BY ADVS.

SRI.P.MARTIN JOSE

SRI.THOMAS P.KURUVILLA

SRI.P.PRIJITH

SRI.R.GITESH

SRI.MANJUNATH MENON

SRI.SACHIN JACOB AMBAT

SMT.ANNA LINDA EDEN

SRI.AJAY BEN JOSE

SRI.HARIKRISHNAN S.

SMT.HANI P.NAIR

SRI.M.K.ABOOBACKER, SC, R2

SRI.S.SREEKUMAR (SR.), R3

SRI.T.K.VIPINDAS, SR.GOVERNMENT PLEADER, R1 & R4

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
29.07.2025, THE COURT ON 25.10.2025 DELIVERED THE
FOLLOWING:



JUDGMENT

Dated this the 25th day of October, 2025

Syam Kumar V.M., J.

This Writ Appeal is filed challenging the judgment dated 10.04.2023 of the learned Single Judge in W.P.(C) No.23932 of 2021. Appellant was the petitioner in the W.P.(C).

2. The W.P.(C) was filed by the appellant, *inter alia*, seeking issuance of a writ of mandamus directing the 3rd respondent shopping mall to return the amount of Rs.20/- alleged to have been collected from him illegally towards parking fee and to issue a writ of prohibition or any order or direction directing the 1st and 2nd respondents, viz., the State and the Local Government Authority, to restrain the 3rd respondent from collecting any money from the public towards parking fee.

3. The learned Single Judge, after due hearing, dismissed the W.P.(C), *inter alia* holding that the collection of fees from the parking slots of the 3rd respondent shopping mall, though legal, the collection of fees from the vehicles in the multilevel parking facility



2025:KER:79709

without obtaining a licence under Section 475 of the Kerala Municipality Act, 1994 is illegal. It was also held that if the 3rd respondent intends to utilise the multilevel parking facility near the shopping mall and collect parking fees from persons using the facility, the same can be done only under a licence issued in terms of Section 475 of the Act. Aggrieved by the judgment of the learned Single Judge to the extent that the prayers sought by him were not granted, the appellant had filed this Writ Appeal.

4. Heard Sri.Jacob Mathew, Advocate for the appellant, Sri.T.K.Vipindas, Senior Government Pleader for respondents 1 and 4, Sri.M.K.Aboobacker, Advocate for the 2nd respondent and Sri.S.Sreekumar, Senior Advocate, for the 3rd respondent.

5. The learned counsel for the appellant contended that the judgment rendered by the learned Single Judge is erroneous and unsustainable. It is contented that the parking space provided for in the multi-storey commercial complex is a service and the same ought to have been made available by the building owner to the customers free of cost. The permission for a commercial complex is granted on the stipulation that parking facilities are included therein



2025:KER:79709

to ensure the public roads remain free of congestion. It is contended that by imposing a parking fee, the very intention behind providing parking space had been violated and that the public interest stands compromised. The learned Single Judge, it is submitted, had failed to take note of the said aspect. It is further submitted that the 3rd respondent could not have converted the parking space provided in the plan submitted by him seeking building permit into a private parking stand and had no authority to collect parking fees from the customers. It was the duty of the 3rd respondent to provide sufficient parking space in the commercial building. It is contended that Rule 7(9)(D) of the Kerala Municipality Building Rules, 1999 mandates that an applicant is required to show a parking plan with parking spaces, driveways and maneuvering spaces to obtain a building permit. The learned Single Judge ought to have noted that there existed discrepancies in the date of issue and signature in Exhibit R2 (a) and Exhibit R3(a), and the same are hence false documents produced by respondents 2 and 3. It is also contended that the learned Single Judge failed to note that licences under Section 447 and Section 475 of the Kerala Municipalities Act, 1994 are different



2025:KER:79709

and distinct and that many commercial complexes in Ernakulam, are illegally collecting parking fee from its customers. If the judgment of the learned Single Judge is allowed to remain, the customers who come to the malls will park their vehicles on the side of the roads, which would seriously affect the vehicular traffic of the area, thus detrimentally impacting the larger public interest. The learned counsel thus prayed that the judgment of the learned Single Judge may be set aside and that the prayer sought for and the Writ Petition may be allowed.

6. Per contra, the learned Senior Counsel appearing for the 3rd respondent submitted that the judgment of the learned Single Judge does not call for any interference. It is submitted that the respondent had provided well-organised hassle-free services to the customers who are parking their vehicles and in the said regard had to incur expenses for managing the parking space. It has also provided the services of security personnel for manning and assisting with the parking of vehicles. Besides, the parking area has also been provided with parking slot counting sensors and CCTV cameras and other facilities for the customers. The parking space



2025:KER:79709

spreads over the limits of two separate local self-government institutions and licences have been duly obtained from them and the same are being renewed. Respondent has been paying a licence fee to the local self-government bodies for the pay and park services. The parking area had also been assessed for property tax by the local authorities, and the respondent had been paying around Rs.83,00,000/- and more to the Kalamassery Municipality and Rs.25,00,000/- plus to the Kochi Municipal Corporation towards property tax per year for the building areas used for pay and park. The learned Single Judge had considered the licences produced and had held that Exhibit R2 (b) licence dated 09.07.2021 reveals that the list of services for which the licence is granted include pay and park also. The learned Single Judge has, after an elaborate consideration of the contentions put forth, specifically concluded that a multilevel parking facility falls within the meaning of parking building under Section 2(bx) of the Kerala Municipality Building Rules, 2019 and is classified as a Group F (Mercantile or Commercial) building as per Rule 25 of the 2019 Rules. It had thus been validly concluded by the learned Single Judge that pay and



2025:KER:79709

park is included in an activity for which a licence can be granted under Section 447 of the Kerala Municipality Act after the amendment to the Schedule in 2020. It is submitted that the 3rd respondent had been levying the parking fee validly and in accordance with law. Reliance is placed on the dictum laid down in **K.A.Shobha and another v. Palakkad Municipality and others** [2015 KHC 7118] **Mughal Foundation Mall v. The Secretary, Kodungallur Municipality** [2017 KHC 7550] and it is contended that a parking fee can be collected after obtaining due licence in the said respect from the concerned local government body. It is thus prayed that the Writ Appeal may be dismissed.

7. The learned counsel appearing for the 1st and 2nd respondents made submissions in line with the statements/ affidavits filed by the said respondents in the W.P.(C).

8. We have heard both sides in detail and have considered the contentions put forth. We note that the learned Single Judge has, after a detailed exposition of the law on the point, concluded that if the building owner decides to levy parking fee, such activity can be carried out only under a licence issued by the local authority.



2025:KER:79709

In the course of hearing of this Writ Appeal, taking note of the contention raised by the counsel for the appellant regarding the alleged discrepancy in the licence/s said to have been issued to the 3rd respondent by the 2nd respondent, we had directed the 2nd respondent to submit on instructions whether Code No.354 as mentioned in licence dated 09.07.2021 is in respect of the parking in the basement of the Mall and if not to point out the exact Code under which the Malls are required to take licence. In compliance thereof, the 2nd respondent had filed a statement *inter alia*, pointing out that in Schedule No.II of the amended Rules, the activities for which licences required are provided in serial numbers and in the said Schedule, Serial No.354 relates to “office for various purpose” and Serial No.273 deals with “pay and park area”. The Code No.354 given in the licence dated 09.07.2021 issued to the 3rd respondent, it is stated, indicates only the serial number shown in Schedule II of the Rules of 2011 as amended in 2020. The list of services for which the licence had been given to the 3rd respondent had been enumerated in the licence, wherein Serial No.5 states ‘pay and parking’ as one of the services for which the licence was issued



2025:KER:79709

under Section 447 of the Kerala Municipality Act by the respondent Municipality. It had also been stated from the statement filed that the 2nd respondent has issued to the 3rd respondent a licence on 12.08.2022, showing the licence purpose mentioning Code No.273 pertaining to “pay and park area” as well as Code No.354 relating to “Office for various purpose” for the period 01.04.2022 to 31.03.2023 in tune with the amended Rules of 2020. Photocopies of the licence dated 12.08.2022 and the licence for the period 01.04.2023 to 31.03.2024 had been produced as Annexure R2(a) and Annexure R2(b). The contentions put forth by the 3rd respondent regarding the licence thus stand substantiated by the said documents. We note that the learned Single Judge had also elaborately considered the question whether the licence for collecting parking fees should be under Section 475 or whether a licence issued under Section 447 can be utilised for the said purpose. It had been validly concluded by the learned Single Judge that Exhibit R2 (b) licence dated 09.07.2021 reveals that the list of services for which the licence is granted include ‘pay and park’ also. Nothing tenable has been put forth by the appellant to challenge or



2025:KER:79709

contest the reasoning and conclusion arrived at by the learned Single Judge in the impugned judgment. No illegality or perversity has been pointed out to interfere with the impugned judgment.

The Writ Appeal fails and it is dismissed.

Sd/-

**SUSHRUT ARVIND DHARMADHIKARI
JUDGE**

Sd/-

**SYAM KUMAR V.M.
JUDGE**

csi



2025:KER:79709

APPENDIX OF WA 939/2023

APPELLANT'S ANNEXURES

First Report of
the Amicus
Curiae

FIRST REPORT OF THE AMICUS CURIAE

Additional
notes

ADDITIONAL NOTES SUBMITTED BY THE AMICUS
CURIAE.

RESPONDENTS' ANNEXURES

- Annexure-R3(a) True copy of Government order G.O.(P) No. 62/2020/LSG dated 30-10-2020 in vernacular language
- Annexure-R3(b) True copy of renewed licence dated 17-03-2022 issued by the 2nd respondent for the period from 01-04-2022 to 31-03-2023
- Annexure-R3(c) True copy of licence dated 12-08-2022 issued by the 2nd respondent for the period from 01-04-2022 to 31-03-2023
- Annexure-R3(d) True copy of licence dated 11-04-2023 issued by the 2nd respondent for the period from 01-04-2023 to 31-03-2024
- Annexure-R3(e) True copy of screenshots of the various stages of application for licence for pay and park services in the KSMART application
- Annexure-R3(f) True copy of latest licence issued by the 2nd respondent to LULU Mall for the period from 01-04-2024 to 31-03-2029
- Annexure R2 (a) copy of the said licence dated 12.08.2022 issued to the 3rd respondent
- Annexure R2 (b) copy of the above said licence for the period from 01.04.2023 to 31.03.2024