

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

Monday, the 1st day of July 2024 / 10th Ashadha, 1946

WP(C) NO. 34310 OF 2019

PETITIONER:

1. PAULY VADAKKAN, AGED 49 YEARS S/O. JOSEPH VADAKKAN, VADAKKAN HOUSE, ANNAMANADA P.O., THRISSUR DISTRICT, KERALA.

RESPONDENTS:

1. CORPORATION OF COCHIN, REPRESENTED BY ITS SECRETARY, BOAT JETTY, ERNAKULAM-682504.

AND 15 OTHERS

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue an interim direction to the concerned authorities to repair the place where the accident occurred on 12-12-2019 without any further delay.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 11-06-2024 and upon hearing the arguments of M/S. JOMY K. JOSE, SREENATH VIJAYARAGHAVAN, Advocates for the petitioners, SRI. K.P.JUSTINE & K.JANARDHANA SHENOY, STANDING COUNSEL for respondent 1, SRI. K.V.MANOJKUMAR, SENIOR GOVERNMENT PLEADER for respondents 2, 3 & 6, SRI.GEORGIE JOHNY, Advocate for respondent 4, SRI .K. JAJU BABU (SENIOR ADVOCATE) along with SMT.M.U.VIJAYALAKSHMI, STANDING COUNSEL for respondent 5, SRI.BIDAN CHANDRAN, STANDING COUNSEL for Addl.R7, SRI. T.RAMAPRASAD UNNI, Advocate for Addl. respondent 8, SRI.K.P.PRADEEP, SANAND RAMAKRISHNAN, T.T, BIJU, T.THASMI, M.J.ANOOPA & SANU S.MALAKEEL, Advocates for R10 & ADDL.R13, SRI.B.ARUN KUMAR, Advocate for R11, SRI.V.V.ASOKAN(SENIOR) along with M/S. VINEETH KOMALACHANDRAN, UTHARA ASOKAN, KALLIYANIKRISHNA B. & PARVATHYS., Advocates for ADDL.R12, SRI.JAI MOHAN & M.GOPIKRISHNAN NAMBIAR, Advocates for ADDL.R14, M/S. S.PRASANTH, VARSHA BHASKAR & ANUPAMA SIBI, Advocates for R15, M/S.C.R. SIVAKUMAR, S.SOORYA GAYATHRY, Advocates for the additional 16th respondent, and of SRI. VINODBHAT, SMT S. KRISHNA & SRI.P.DEEPAK, AMICI CURIAE, the court passed the following:

DEVAN RAMACHANDRAN, J.

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32680 of 2008**

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Dated this the 1st day of July, 2024

ORDER

Apropos the order dated 11.06.2024, the learned Senior Government Pleader - Sri.K.V.Manoj Kumar, has placed on record his Memo, annexing thereto a Report of the District Collector with respect to "Operation Footpath".

2. It is really unnerving how much the citizens of this city should suffer, particularly during monsoons, when the pedestrian areas are, at most of the parts, extremely dangerous; while, in the others unusable. It really reflects a lack of priority and exposes a belief that pedestrians are not of value; and this is more pronounced in the case of those who are not fully abled, or differently abled because, their access to the public spaces are severely attenuated, if not completely incapacitated.

3. I cannot understand why the Authorities still don't see this in its proper perspective and how pedestrian areas can be left in such a deplorable condition, in spite of several orders by this Court. Most of the time, the standard reason given is lack of resources, but I don't fathom how the system can cite such, when the lives of citizens are in great peril.

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4. The Report on record by the District Collector now says that he has constituted a committee chaired by himself and with officials of the KMRL, CSML, Kochi Corporation, Kalamassery Municipality, Thrippunithura Municipality, Maradu Municipality, PWD, GCDA, GIDA and the Police, to monitor the activities of “Operation Footpath” and that they will meet at least once a month. This is certainly a welcome step, but if this is to be ensured to be done in a proper manner, I am sure that this Court will also be required to be kept informed. The learned Senior Government Pleader, therefore, sought a month’s time for the first report to be placed on record.

5 In the meanwhile, I direct the Kochi Corporation, PWD, KMRL, GCDA and CSML to immediately take steps to make essential corrective and reparatory measures on the roads within their command, to render the pedestrian areas minimum accessible and at least walkable for citizens. Work in this regard shall begin forthwith and I expect a progress report from each of these Authorities to be brought to this Court by the next posting date; for this purpose, which I fix it as being 25.07.2024.

6. As regards the MG Road of Kochi City, Sri.K.V.Manoj

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Kumar - learned Senior Government Pleader, submitted that, as regards the work of restoration of its drainage and footpath areas, the Government is actively considering it and that he is confident that he will be able to report a positive outcome, particularly, because earlier, it had been deferred only for want of funds; but now, taking note of the opinion of this Court, there is a rethink. For this purpose, I list this matter on 11.07.2024.

7. Aroor - Thuravoor stretch : the learned Amicus Curiae - Sri.S.Vinod Bhat invites my attention to the stated horrific condition of the present National Highway at the afore stretch. He says that the NHAI is in the process of creating an elevated highway, but that the alternative for the motorists and pedestrians have been completely neglected. He pointed out that during monsoons this becomes much more exacerbated and that accidents are now happening on a regular basis, even every hour.

8. Sri.B.G.Bidan Chandran - learned Standing Counsel for the NHAI, sought two days time to brief this Court about this problem. No doubt, development activities by the NHAI is most imperative, but it cannot be at the cost of convenience and lives

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of people. In any country, before a major project starts, the alternatives are well thought of, executed and put in place, and this is well documented. Even when major works on roads go on, motorists and pedestrians don't even become aware of such work, until it is completed and thrown open for traffic. But alas, in our country, things appear to be different, where the common man takes the pinch every moment, until the work is completed. This is not the way it is expected to be and definitely not conducive to the modern times. I indite this only so as to enable Sri.B.G.Bidan Chandran to impress upon the competent Authority of his client, the gravity of this situation. List for this purpose on 05.07.2024.

9. Show the name of Sri.B.G.Bidan Chandran in the cause list.

Sd/-

DEVAN RAMACHANDRAN, JUDGE

ACR