

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE
&
THE HONOURABLE MR. JUSTICE S.MANU**

**Tuesday, the 2nd day of July 2024 / 11th Ashadha, 1946
WP(C) NO. 26324 OF 2022**

PETITIONER:

**SHERLY ALBERT, AGED 56 YEARS, FLAT NO. 6B2, NATIONAL RESIDENCY, BANK
JUNCTION, EDAPPALLY, KOCHI.**

RESPONDENTS:

- 1. THE DISTRICT COLLECTOR, DISTRICT COLLECTORATE, IDUKKI, PIN - 678013
AND 10 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 direct the respondents 1 to 5 to stop all illegal construction activities being carried out at the petitioner's property purchased vide Exhibit P1; forthwith and to further furnish a report regarding the fraudulent transfers in 'Ranimudi estate' by show causing the actual loss sustained by the government and other parties in the above regard, pending final disposal of the Writ Petition.

This petition again coming on for orders along with connected case upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 03.04.2024 and upon hearing the arguments of AYSHA ABRAHAM, Advocate for the petitioner, GOVERNMENT PLEADER for R1 to R3 and R5, STANDNG COUNSEL for R4, SRI. DEEPU THANKAN, Advocate for ADDL.R6, M/S DEEPU THANKAN, LAKSHMI SREEDHAR, LEKSHMI P. NAIR, UMMUL FIDA and NAMITHA.K.M, Advocates for ADDL.R7, M/S R. HARIKRISHNAN (KAMBISSERIL), V.G. ARUN, NEERAJ NARAYANAN and V. JAYA RAGI, Advocates for ADDL.R8 and of SRI. R. HARIKRISHNAN (KAMBISSERIL), Advocate for ADDL. R9 and ADDL. R10, the court passed the following:

P.T.O

A.MUHAMED MUSTAQUE & S.MANU, JJ.

**W.P.(C)Nos. 26324 of 2022, 43032 of 2022,
39606 of 2023, 17552
&
18996 of 2024**

Dated this the 2nd day of July, 2024

ORDER

A.Muhamed Mustaque, J.

Smt.Sherly Albert, who is a party respondent and also petitioner in W.P.(C)26324 engaged lawyers and filed vakalath. In all cases, Adv.Aysha Abraham holds the Vakalath on behalf of Smt.Sherley Albert. She had instructed Adv.Yeshwanth Shenoy to appear on behalf of her before this Court. Adv.Yeshwanth Shenoy is not a designated Senior Counsel. Adv.Yeshwanth Shenoy submits that he has enrolled in the roll of Bar Council of Kerala. We raised doubt as to his engagement without filing vakalath. He points out the Rule framed by the High Court of Kerala under Section 34(1) of Advocates Act, 1961 regarding conditions of practice of Advocates. He refers to Rule 2, which read thus :

"Save as otherwise provided in any law for the time being in force, 'no advocate shall be entitled to appear, plead or act for any person in any Court in any proceeding unless the advocate files an appointment in writing signed by such person or his

recognised agent and signed by the advocate in token of its acceptance:

Provided that where an advocate has already filed an appointment in any proceeding, it shall be sufficient for another advocate, who is engaged to appear in the proceeding merely for the purpose of pleading, to file a memorandum of appearance or to declare before the court that appears on instructions from the advocate who has already filed his appointment in the proceeding:

Provided further that nothing herein contained shall apply to an advocate who has been requested by the court to assist the court amicus curiae in any proceeding."

2. According to Sri.Yeshwanth Shenoy, learned Counsel, the Proviso enables him to appear before this Court and argue cases. According to him, pleading would include placing submissions on behalf of parties, as instructed by the counsel who holds vakalath. Adv.Yeswanth Shenoy submits that a memorandum of grievance placed before the Chief Justice, has been turned down by the Grievance Committee of the High Court, in regard to clarity of rules permitting to appear without filing vakalath. We need to interpret this rule. There are designated Senior Counsel before this Court. Can any class of lawyers who are not designated as a Senior Counsel can appear before this Court to make submissions and arguments without holding vakalath is a genuine doubt we have. What extent a lawyer can be allowed to be pleaded without filing vakalath is a question. If

the 'pleadings' include entire aspects related to conduct of a case and making submissions, no doubt Adv.Shenoy can be permitted to appear before this Court without filing vakalath. But the issue has to be resolved by this Court.

3. Taking note of the importance of the issue, as to whether a non-designated Counsel holding no vakalat executed by the party can make submissions and argue case before this Court or not, we thought it fit to seek the help of lawyers, who are present before this Court. Accordingly, we sought the help of Senior Counsel Sri.S.Sreekumar, Adv.Sreekumar Chelur, Dr.George Abraham and Adv.Deepu Thankan, who readily agreed to assist the court. We also seek the assistance of any lawyer who are willing to make submissions before this Court in this matter. This order be published by the High Court and be circulated to High Court Bar Association.

Post on 10.07.2024.

sd/

A.MUHAMED MUSTAQUE

JUDGE

sd/

S.MANU

JUDGE

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