



W.A.No.1048 of 2026

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MRS. JUSTICE PREETA A.K.

TUESDAY, THE 19<sup>TH</sup> DAY OF MAY 2026 / 29TH VAISAKHA, 1948

WA NO. 1048 OF 2026

AGAINST THE JUDGMENT DATED 10.04.2026 IN WP(C) NO.2050  
OF 2026 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

RAJESH BABU  
AGED 50 YEARS, S/O BABU,  
KARTHIKA VEEDU, KOTTAPURAM, KOTTARAKKARA,  
KOLLAM, PIN - 691506.

BY ADVS. SRI.R.REJI  
SRI.M.V.THAMBAN  
SMT.THARA THAMBAN  
SRI.B.BIPIN  
SRI.ARUN BOSE  
SMT.JEENA A.V.  
SRI.ARJUN R.  
SRI.GAUTHAM R KARTHA  
SRI.SHAJI J.

RESPONDENTS/RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY THE PRINCIPAL SECRETARY,  
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695023.
- 2 THE DISTRICT COLLECTOR  
CIVIL STATION, T D NAGAR, VIDYA NAGAR,



W.A.No.1048 of 2026

KOLLAM, PIN - 691013.

- 3 THE SECRETARY  
KOTTARAKKARA MUNICIPALITY, KOTTARAKKARA,  
KOLLAM, PIN - 691506.
- 4 THE DISTRICT POLICE CHIEF  
KOLLAM DISTRICT POLICE POLICE GROUND,  
KOLLAM RURAL, KOLLAM, PIN - 691001.
- 5 THE STATION HOUSE OFFICER  
KOTTARAKKARA POLICE STATION, KOTTARAKKARA,  
KOLLAM, PIN - 691506.
- 6 THE JOINT REGIONAL TRANSPORT OFFICER (JRTO)  
KOTTARAKKARA, POLACHIRA BUILDING, MARKET JUNCTION,  
KOTTARAKKARA, KOLLAM, PIN - 691506.
- 7 SABARI  
OWNER AND SOLE PROPRIETOR, LANDMARK ARCHITECTS AND  
STRUCTURAL ENGINEERS, OPPOSITE WAREHOUSING  
CORPORATION, PULAMON P.O KOTTARAKKARA, PIN -  
691531.
- 8 (ADDL.R8) TRAFFIC REGULATORY COMMITTEE,  
KOTTARAKKARA MUNICIPALITY, REPRESENTED BY ITS  
CHAIRMAN, KOTTARAKARA MUNICIPAL OFFICE,  
KOTTARAKARA  
KOLLAM DISTRICT, KERALA, PIN - 691506  
[ADDL.R8 IS SUO MOTU IMPEADED AS PER ORDER DATED  
20.01.2026 IN WP(C) 2050/2026, PIN - 651506]

BY ADV.SRI.B.UNNIKRISHNA KAIMAL,  
SENIOR GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19.05.2026,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



## JUDGMENT

### PREETA A.K., J.

This Writ Appeal is filed assailing the judgment of the learned Single Judge whereby the learned Single Judge decided against the exercise of his discretionary powers under Article 226 of the Constitution of India on the ground that the reliefs sought for are purely private in nature and are not amenable to the writ jurisdiction under Article 226 of the Constitution of India. The short facts relevant for the determination of the *lis* are as follows:

The appellant is a tenant of shop room Nos. 9/626 and 9/632 of Kottarakkara Municipality wherein he is running an electronic showroom and service centre. The 7<sup>th</sup> respondent is also a tenant in the same building and according to the appellant, the 7<sup>th</sup> respondent who is an Architect and Structural Engineer is illegally parking his vehicle in such a manner that the frontage of appellant's showroom is completely covered and access to his shop room is partially blocked. The writ Petition was filed by the appellant seeking a declaration that the unauthorised parking of vehicles in front of his shop room, obstructing his private right as illegal and seeking police protection for



**W.A.No.1048 of 2026**

carrying out the business in the petitioner's shop room by stopping illegal parking of vehicles by the 7<sup>th</sup> respondent, his staff and customers in front of the shop.

2. The learned Single Judge, taking note of the fact that both the appellant as well as the 7<sup>th</sup> respondent are tenants of the same landlady held that both have a right to park their vehicles in front or near the building wherever such area is earmarked and hence parking of vehicles by the 7<sup>th</sup> respondent could not be seen as illegal vis-a-vis the writ petitioner. The Writ Petition was therefore dismissed on the ground that enforcement of access to the petitioner's shop room being a private right has to be through proceedings in a civil court.

3. In the appeal before us, the learned counsel for the appellant urged that the learned Single Judge failed to apply the dictum in **Noushad M. v. State of Kerala, 2019 (2) KHC 562** and that the right of the appellant is backed by the statutory provision under Section 117 of the Motor Vehicles Act, 1988 and the Rules framed thereunder and that Kottarakkara Municipality has a statutory duty to regulate public spaces and prevent obstruction and nuisance.

4. We have considered the contentions raised by the appellant



**W.A.No.1048 of 2026**

and have perused the pleadings in the appeal and gone through the precedents cited. Admittedly, both the appellant as well as the 7<sup>th</sup> respondent are tenants in the same building. Thus, both have similar rights to use the space available for parking vehicles in the premises of the building subject to the contract entered into between the tenant and landlady. The premises of the building cannot by any stretch of imagination be considered as a public space as the same is only a private space accessed by public in the ordinary course of their business. So considered, the provisions regarding the Motor Vehicles Act or the duty of the statutory authorities to regulate public places does not have any application to the facts of the case. It is also pertinent to note that the judgment relied on by the appellant pertains to regulation of parking in public spaces and as such the same is not applicable to the facts of the case. Except for the plea of inconvenience caused by the parking of vehicles by the 7<sup>th</sup> respondent, the appellant does not have a case that a law and order situation prevails so as to seek the remedy of police protection. Thus said, the grievance of the appellant regarding parking of vehicles by the 7<sup>th</sup> respondent in front of his shop rooms does not come within the purview of a public law remedy.



**W.A.No.1048 of 2026**

5. It is trite that a writ of mandamus or the remedy under Article 226 is pre-eminently a public law remedy and is not generally available as a remedy against private wrongs. It is used for enforcement of various rights of the public against the State, within the meaning of the term under Article 12 of the Constitution of India or to compel public/statutory authorities to discharge their duties and to act within their bounds. It may be used to seek justice when there is wrongful exercise of public power or a refusal to perform public duties. As in the instant case, such a situation does not arise, we find ourselves in complete agreement with the view taken by the learned Single Judge in the impugned judgment.

The Writ Appeal therefore fails and is accordingly dismissed. No costs.

Sd/-

**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-

**PREETA A.K.**  
**JUDGE**

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