

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

Crl.MC.No. 896 of 2015 ()

IN CRRP 76/2014 of D.C & SESSIONS COURT, PALAKKAD

IN MC 188/2014 of SUB DVL.MAGISTRATE,PALAKKAD

PETITIONER(S):

**S.MOHAMMED FAROOK AGED 56 YEARS
S/O.SHAHUL HAMEED, ATHIKKODE, KOZHINJAMPPARA P.O.
PALAKKAD DISTRICT, PIN: 678 554.**

**BY ADVS.SRI.SANTHEEP ANKARATH
SRI.Y.JAFAR KHAN**

RESPONDENT(S):

- 1. AMEER HAMZA, AGED 62 YEARS
S/O.SHEIK MUHAMMED ROWTHER, ATHIKODE
PALAKKAD DISTRICT, PIN: 678 553.**
- 2. MUHAMMED THASTHEER,, AGED 35 YEARS
S/O.AMEER HAMSA, ATHIKODE, PALAKKAD DISTRICT
PIN: 678 553.**
- 3. SHAHUL HAMEED,, AGED 45 YEARS
S/O.MUHAMMED HANEEFA ROWTHER, PALLIMEDU, ATHIKODE
PALAKKAD DISTRICT, PIN: 678 553.**
- 4. FATHIMA BEEVI,, AGED 35 YEARS
W/O.SHAHUL HAMEED, PALLIMEDU, ATHIKODE
PALAKKAD DISTRICT, PIN: 678 553.**
- 5. AYISHA,, AGED 65 YEARS
W/O.ADAM MUHAMMED, VENTHAPALAYAM, ATHIKODE
PALAKKAD DISTRICT, PIN: 678 553**
- 6. ABDUL AJEES,, AGED 65 YEARS
S/O.MUHAMMED ROWTHER, KOOTUPATHA, ATHIKODE
PALAKKAD DISTRICT, PIN: 678 553.**
- 7. ABDUL SALAM, AGED 63 YEARS,
S/O MUHAMMED ROWTHER, ATHIKODE, PALAKKAD DISTRICT
PIN 678553**

**8. ABDU UBAID, AGED 42 YEARS
S/O MUHAMMED HAMSA, ATHIKODE
PALAKKAD DISTRICT, PIN- 678553**

**9. SIDHIQUE, S/O MUHAMMED HAMSA, AGED 48 YEARS
ATHIKODE, PALAKKAD DISTRICT
PIN 678553**

**10. SALMAN PARIS
AGED 35 YEARS, S/O KAJA HUSSAIN
PALLIMEDU, ATHIKODE
PALAKKAD DISTRICT, PIN – 678553**

**11. SECRETARY
KOZHINJAMPARA GRAMA PANCHAYAT
KOZHINJAMPARA – 678554
PALAKKAD DISTRICT**

**12. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
KOCHI - 682018**

R12 BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**A1: TRUE COPY OF ORDER IN M.C NO.188/2014 DATED 4/11/2014 PASSED BY SUB
DIVISIONAL MAGISTRATE, PALAKKAD.**

**A2: TRUE COPY OF THE CRIMINAL REVISION PETITION NO.76/2014 DATED 24/11/2014
FILED BY RESPONDENTS 1 TO 10 BEFORE THE SESSIONS COURT, PALAKKAD**

**A3: TRUE COPY OF CRIMINAL M.P NO.3684/2014 IN CRL.R.P NO.76/2014 DATED
2/11/2014 FILED BY THE RESPONDENTS 1 TO 10 BEFORE THE SESSIONS COURT,
PALAKKAD**

**A4: TRUE COPY OF RESOLUTION NO.7(7) DATED 9/7/2012 OF KOZHINJAMPARA
GRAMA PANCHAYAT**

**A5: TRUE COPY OF THE REPORT OBTAINED BY THE PETITIONER FROM THE
ASSISTANT ENGINEER, QUALITY CONTROL OF KERALA WATER AUTHORITY DATED
12/9/2014.**

**A6: TRUE COPY OF THE REPORT DATED 8/7/2014 OF THE VILLAGE OFFICER,
KOZHINJAMPARA AND OBTAINED BY THE PETITIONER UNDER RIGHT TO
INFORMATION ACT**

**A7: TRUE COPY OF REPORT DATED 5/5/2014 OF THE MEDICAL OFFICER, P.H.C.
VANNAMADA**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PATO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 896 of 2015

Dated this the 18th day of February, 2015.

O R D E R

A revision petition now pending before the Court of Session, Palakkad is a subject matter of this proceeding brought under Section 482 Cr.P.C. In a proceeding brought under Section 133 Cr.P.C, the Sub Divisional Magistrate Palakkad, in exercise of his powers as Executive Magistrate directed the respondents 1 to 10 to close down a farm on the ground of public nuisance. The said order passed under Section 138 Cr.P.C is under challenge in revision before the Sessions Court. The petitioner now seeks two reliefs in this proceeding. One is to direct the Court of Session to implead him as a party in the revision, and the other is to direct the Court of Session to dispose of the revision petition within a time frame. As regards the first prayer, nothing can be done by this court. If the petitioner wants to be heard in the proceeding, he will have to approach the Court of Session itself with necessary application. If his junction is absolutely necessary for

a just decision, it will definitely be considered by the court of Session. This court cannot intrude into the revision process, and direct the court below to implead the petitioner as party in the revision. As regards the second prayer also this court finds that such a time frame cannot be now fixed by the court. The petitioner has no right or locus standi to make a request for speedy and expeditious disposal of the revision petition. No doubt, the matter involves some urgency, and the dispute requires consideration at the earliest, because elements of public nuisance are very much involved in the dispute. In such a situation, the court of Session will have to take a decision expeditiously in the revision brought by the respondents against the order passed by the Executive Magistrate under Section 138 Cr.P.C. Though a direction for a time bound disposal is inappropriate here, the court below can be directed to dispose of the matter at the earliest, and with such a direction this petition can be closed.

In the result, this CrIM.C is closed, with a direction to the Court of Session, Palakkad (the learned Principal Sessions Judge or the Additional Sessions Judge hearing the matter), that Crl. Revision petition No. 76 of 2014 shall be heard and disposed of at the earliest, on a consideration of the issue of

public nuisance involved in the lis.

P.UBAID,
JUDGE

sab