

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

OP(C).No. 185 of 2014 (O)

OS 108/2013 of ADDL.MUNSIFF COURT, PALAKKAD

PETITIONER(S)/PETITIONER:

NARAYANAN
S/O.LATE PONNU, RESIDING AT MUTHIRAMPALLAM
ELAPPULLY P.O., PALAKKAD.

BY ADV. SRI.P.R.VENKETESH

RESPONDENT(S)/RESPONDENTS:

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1. STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR OF PALAKKAD,
CIVIL STATION, PALAKKAD - 678 001.
 2. THE SECRETARY,
ELAPPULLY GRAMA PANCHAYAT, ELAPPULLY
PALAKKAD TALUK - 678 622.
 3. THE VILLAGE OFFICER,
ELAPPULLY VILLAGE, ELAPPULLY
PALAKKAD TALUK - 678 622.

R2 BY ADV. SRI.RAJESH SIVARAMANKUTTY
R BY SR. GOVERNMENT PLEADER SRI.L.ALOYSIUS THOMAS

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 07-07-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 : TRUE COPY OF THE REPLY DATED 08.04.2013 RECEIVED BY THE PETITIONER FROM THE PANCHAYAT

EXHIBIT P2 : TRUE COPY OF THE I.A.20/2014 FILED IN I.A.NO.108/2013 BY THE PETITIONER BEFORE THE COURT OF THE MUNSIF, PALAKKAD

EXHIBIT P3 : TRUE COPY OF COUNTER FILED BY THE 2ND RESPONDENT IN IA NO.20/2014 BEFORE THE COURT OF THE MUNSIF, PALAKKAD

EXHIBIT P4 : TRUE COPY OF THE ORDER DATED 10.01.2014 IN I.A.NO.20/2014 OF THE COURT OF THE MUNSIF, PALAKKAD

EXHIBIT P5 : TRUE COPY OF THE PLAINT IN OS NO.108/2013 FILED BY THE PETITIONER BEFORE THE COURT OF THE MUNSIF, PALAKKAD

EXHIBIT P6 : TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE 2ND RESPONDENT IN OS NO.108/2013 BEFORE THE COURT OF THE MUNSIF, PALAKKAD

RESPONDENT(S)' EXHIBITS

// True Copy //

PA to Judge

B. KEMAL PASHA, J.

.....
O.P.(C) No.185 of 2014
.....

Dated this the 7th day of July, 2015

J U D G M E N T

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The plaintiff in a suit for perpetual injunction has sought for the amendment of the plaint through I.A.No.20/2014. The plaintiff is the petitioner herein. According to the petitioner, the amendment was necessitated when the petitioner came to know about the contents of the written statement filed by the 2nd respondent Panchayat. The case of the petitioner is that there is a lane situated at the northern side of the plaint schedule property, which passes towards west and after crossing the canal, it passes further towards west to a colony meant for the members of the scheduled castes. When there were attempts from the part of the Panchayat to widen the lane passing through the northern side of the plaint schedule property, the suit was filed. From the written statement, it has come out that there was a proposal to maintain the road

leading to the scheduled caste colony. According to the petitioner, in such case, his property lying at the western side of the canal would also be affected. Therefore, the petitioner wanted to include that property also as one of the plaint schedule properties in the plaint, for which the amendment was sought for.

2. The court below has dismissed the IA on the ground that the petitioner came to know about the proposal for the maintenance of the road leading to the scheduled caste colony on 08.04.2013. Thereafter, the petitioner waited till 01.01.2014 to file the present IA when the suit was in the list of 02.01.2014. The list was published much earlier; even then the amendment was sought just on the previous day.

3. Heard learned counsel for the petitioner, learned Government Pleader for the other respondents, and learned counsel for the 2nd respondent.

4. The suit is of the year 2013. On hearing the

learned counsel for the parties, this Court is satisfied that the petitioner should have been permitted to amend the plaint as prayed for in the IA. It is true that the application was somewhat belated. At the same time, no evidence was recorded in the matter. In such case, the court below could have allowed the IA.

In the result, this O.P.(Civil) is allowed and Ext.P4 order is set aside. Ext.P2 IA stands allowed. The court below shall permit the petitioner to carry out the amendment and give the defendants an opportunity to file an additional written statement. Thereafter, the suit can be listed at the earliest and disposed of as expeditiously as possible, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/07/07

// True Copy //

PA to Judge