

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 6738 of 2006 (B)

PETITIONER:

**RAJAGOPAL,
S/O.THANKAMMA, AGED 42 YEARS, ARAVINDHALAYAM
Ayyappankavu.P.O, KOZUKULLY, NADATHARA
THRISSUR.**

**BY ADVS.SRI.K.A.SREEJITH
SRI.P.V.SREENIVASAN**

RESPONDENT(S):

- 1. ANANDAN,
S/O.GOVINDAN, EDAATHALA HOUSE, P.O.KOZHUKULLY
AMBALAMOOLA, NADATHARA.**
- 2. SECRETARY, NADATHARA GRAMA PANCHAYATH,
NADATHARA, KUZHUKULLY.**
- 3. REVENUE DIVISIONAL OFFICER,
THRISSUR.**
- 4. THE SUB REGISTRAR,
KUTTANELLUR SUB REGISTRAR OFFICE, KUTTANELLUR.**

**R, BY ADV. GOVERNMENT PLEADER SRI ABHIJEET LESSIL
R,R2 BY ADV. SRI.T.C.SURESH MENON
R,R1 BY ADV. SRI.C.C.THOMAS (SR.)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF THE PETITION FILED BY MR.ACHUTHAN DATED 31.01.2006
- EXT.P2: THE TRUE COPY OF DIRECTION ISSUED BY ADDITIONAL TAHSILDAR TO THE 2ND RESPONDENT DATED 27.02.2006
- EXT.P3: TRUE COPY OF THE MASS PETITION SUBMITTED BY THE FARMERS OF THE AYYAPPANKAVU KOLE TO THE CONCERNED AUTHORITIES ABOUT ILLEGAL FINDING AND TRANSACTIONS DATED 30.01.2006
- EXT.P4: TRUE COPY OF THE DECISION TAKEN BY THE 2ND RESPONDENT DTD 20.02.2006
- EXT.P5: TRUE COPY OF THE LAND TAX RECEIPT
- EXT.P6: TRUE COPY OF THE RELEVANT PORTION OF THE DIRECTION IN THE PARISHKARICHA MARGAREKHA
- EXT.P7: TRUE COPY OF THE STATEMENT OF BHASKARAN NAIR
- EXT.P8: TRUE COPY OF THE REPORT PUBLISHED IN THE MATHRUBHUMI DAILY DATED 25.10.2006 WITH REGARD TO THE ILLEGAL FILING OF REAL ESTATE LOBBY
- EXT.P9: TRUE COPY OF STATEMENT OF AFFAIRS, ADDRESSED TO THIS HON'BLE COURT, ALONG WITH TAX RECEIPTS

RESPONDENTS' EXHIBITS

- EXT.R1(a): PHOTOCOPY OF THE PETITION SUBMITTED BY ONE ACHUTHAN BEFORE 2ND RESPONDENT DATED NIL
- EXT.R1(B): PHOTOCOPY OF THE PETITION DATED 03.03.2006 SUBMITTED BY ONE P.C.GEORGE AND ARAVINDAKSHAN BEFORE THE 2ND RESPONDENT
- EXT.R1(C): PHOTOCOPY OF THE PETITION DATED NIL SUBMITTED BY ONE K.RAMDAS BEFORE THE 2ND RESPONDENT
- EXT.R1(D): PHOTOCOPY OF THE LETTER DATED 01.07.2006 SENT BY THE AGRICULTURAL OFFICER, NADATHARA TO THE PRESIDENT OF NADATHARA GRAMA PANCHAYAT.
- EXT.R1(E): PHOTOCOPY OF THE LETTER DATED 27.06.2006 SUBMITTED BY THE SECRETARY, KOZHAIKULLY PADASEKHARAM TO THE AGRICULTURAL OFFICER NADATHARA.

// TRUE COPY //

PA TO JUDGE

K.SURENDRA MOHAN, J.

W.P.(C) No.6738 of 2006

Dated this the 12th day of February, 2015

J U D G M E N T

The petitioner has filed this writ petition seeking the following reliefs:-

1. direct the respondents 2 to 5, to take appropriate legal action against the illegal filling and changing the nature of the paddy field comprising in Survey No.22/5 of Kozhukkully village, of Thrissur Taluk.
2. and direct the respondents 2 to 4 to take appropriate action to restore the illegally filled paddy field and water chal therein to its original position so as to enable the farmers to irrigate and cultivate their paddy field.
3. direct 2nd respondent not to give assent or distribute any land lying in Survey No.22/5 of Kozhukkully village, of Thrissur Taluk, about which proceedings are pending before concerned authorities under the Kerala Land Utilisation Order under Kerala Development Programme or any other programme or to distribute any money to purchase the said land.
4. declare and quash the decision of the board of Panchayat dated 20-2-2006 as illegal and void.
5. Directions to take appropriate steps against the 4th

respondent may be issued.

2. The case of the petitioner is that, the first respondent has purchased an extent of 1.5 acres of land in Sy.No.22/5 of Kozhukkully Village of Thrissur Taluk and that he has started the work of reclaiming the land and converting the same into dry land. According to the petitioner, the land forms part of a padasekharam where persons including the petitioner are conducting agricultural operations cultivating paddy. It is also alleged that, there is a water channel passing through the property of the first respondent, which he has allegedly filled up denying the only source of water for cultivation of the petitioner's land. Consequently, the petitioner is not able to cultivate his land with paddy.

3. The petitioner had submitted Exhibit P1 complaint dated 31.01.2006 to the Tahsildar, but there was no action thereon. However, Exhibit P2 is relied upon to point out that, the property of the first respondent is a paddy field and that, the Additional Tahsildar, Thrissur had directed

the second respondent to stop the reclamation activities conducted therein. The petitioner also places reliance on Exhibit P3 which is a mass petition addressed to the Revenue Commissioner, on which also, a direction had been issued to stop the activities to reclaim the property. However, the reclamation process is going on without any hindrance. The petitioner has filed this writ petition seeking appropriate reliefs.

4. A counter affidavit has been filed by the second respondent. According to the second respondent, the Government had allotted a substantial amount of money to the Panchayat under the Kerala Development Programme to purchase lands for being distributed to landless persons. The panchayat was authorised to distribute amounts at the rate of ₹19,500/- to each landless person belonging to scheduled Castes and at the rate of ₹18,000/- per member of any other community. Accordingly, a portion of the land comprised in Sy.No.22/5 at Kozhukkully Village was

purchased by six persons whose details are given in the counter affidavit. It is stated that they are the beneficiaries of the Kerala Land Development Programme in whose names sales deeds are already executed. Since any order that may be passed in this writ petition is likely to effect the interests of the said persons, it is contended that they are necessary parties to this writ petition. Since they have not been made parties, it is contended that the petitioner is not entitled to any of the reliefs sought for.

5. It has been further stated in the counter affidavit that, the question of construction of a building therein would arise only when the owners seek such permission. Any such application would be considered in accordance with law, at that time. Since the lands are small in extent, they are not put for agricultural operations. The allegation of the petitioner that, the first respondent had illegally filled up his paddy land and had converted the same is denied.

6. A counter affidavit has been filed by the first

respondent. According to the first respondent, his property was purchased in the year 1995. Since paddy cultivation was not found to be profitable, he had planted the property with other cultivations like coconut palms, plantain palms etc. Such cultivation are still available in the property. In the above circumstances, he was approached by the Panchayat authorities with a proposal to transfer small portions of his property to be distributed among landless persons under the Kerala Development Programme. He had accordingly sold portions of his property to six persons. They are the present owners of the property. The allegation that, the first respondent has filled up and converted his paddy land into dry land is denied. It is also denied that there is a water channel in the property.

7. Pursuant to an order passed by this Court, the third respondent has placed on record, a report dated 04.04.2006 after conducting an inspection. It has been stated that, the Village Officer had inspected the property

on 30.01.2006 and had reported that, due to water scarcity it was not possible to cultivate the land with paddy and therefore, the same had been cultivated with coconut palms, tapioca and plantains. The coconut palms in the lands were found to be 4 years old. He has also reported that he did not find any signs of reclamation in the property. The petitioner has filed a reply affidavit to the report referred to above, disputing the factual aspects.

8. I have heard the counsel for the petitioner Sri. K.A.Sreejith, Advocate M.G. Karthikeyan who appears for the first respondent, Sri.T.C.Suresh Menon who appears for the second respondent as well as the learned Government Pleader.

9. In the nature of the contentions put forward before me, it is clear that, the factual position is not in serious dispute. The petitioner claims that the first respondent has been converting paddy land into dry land. The above fact is seriously disputed by both the first and

second respondents. On an inspection of the land, the Village Officer has also found no evidences of such reclamation. There is absolutely no evidence or material produced before me to show that, there is a water channel in the property of the first respondent as alleged. According to the counsel for the first respondent, the real object of filing this writ petition is only to put hurdles in the path of implementing the Kerala Development Programme under which landless persons are proposed to be distributed with land. Though land was purchased by the first respondent in 1995, the objections have arisen only on 31.01.2006 after the properties were sold to the beneficiaries in implementation of the Kerala Development Programme. It is the further contention of the learned counsel that beneficiaries have not been made parties to this writ petition and therefore, no order prejudicial to their interests can be issued in this case.

10. As already noticed above, according to the first

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and second respondents as well as the Revenue authorities, no conversion of paddy land as alleged has taken place. The report dated 04.04.2006 of the third respondent also supports the above contention. There is no evidence or material to show that there was a water channel in the first respondent's plot.

In view of the above, I do not find any grounds to grant any of the reliefs sought for in this writ petition. This writ petition fails and is accordingly dismissed.

Sd/-
K.SURENDRA MOHAN,
JUDGE

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