

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

WP(C).No. 1746 of 2010 (P)

PETITIONER(S):

**PADMANABHAN, AGED 70 YEARS, S/O.ACHUTHAN,
THANISSERY HOUSE, THALAPPILLI TALUK, PANJAL,
CHERUTHURUTHY, THRISSUR.**

**BY ADVS.SRI.ASOK M.CHERIAN,
SRI.SANTHOSH G. PRABHU,
SRI.S.KANNAN,
SMT.S.RAKHEE.**

RESPONDENT(S):

- 1. PANJAL GRAMA PANCHAYATH, PANJAL. P.O.,
CHERUTHURUTHY VIA, THRISSUR,
REPRESENTED BY ITS SECRETARY.**
- 2. SECRETARY, PANJAL GRAMA PANCHAYATH,
PANJAL P.O., CHERUTHURUTHY VIA., THRISSUR.**

BY ADV. SRI.P.C.SASIDHARAN, SC.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE AGREEMENT DATED 24/01/2001 EXECUTED BETWEEN THE PETITIONER AND THE RESPONDENTS.
- EXT.P2 COPY OF THE NOTICE ISSUED BY THE RESPONDENTS TO THE PETITIONER DATED 29/04/2009.
- EXT.P2A COPY OF THE RESOLUTION NO.VI/(1)/09 DATED 28/04/2009 OF THE RESPONDENTS.
- EXT.P3 COPY OF THE REPLY DATED 04/05/2009 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS.
- EXT.P4 COPY OF THE REPORT NO.PJL 44/09-10 DATED 19/05/2009 OF THE AGRICULTURAL OFFICER, KRISHI BHAVAN, PANJAL SUBMITTED BEFORE THE AGRICULTURAL ASSISTANT DIRECTOR, PAZHAYANNOOR.
- EXT.P5 COPY OF THE APPEAL DATED 12/05/2009 SUBMITTED BEFORE THE EXECUTIVE COMMITTEE OF THE RESPONDENTS BY THE PETITIONER.
- EXT.P6 COPY OF THE REPRESENTATION DATED 12/05/2009 PREFERRED BY THE PETITIONER HEREIN TO THE TAHSILDAR, THALAPPILLY TALUK.
- EXT.P7 COPY OF THE LETTER NO.C1-272/2009 DATED 03/06/2009 OF THE RESPONDENTS.
- EXT.P8 COPY OF THE REPRESENTATION DATED 04/05/2009 SUBMITTED BEFORE THE MINISTER FOR LOCAL SELF GOVERNMENT DEPARTMENT BY THE PETITIONER.
- EXT.P9 COPY OF THE LETTER NO.40715/RC4/2009/LSGD DATED 19/08/2009 OF THE UNDER SECRETARY FOR THE LOCAL SELF GOVERNMENT (R) DEPARTMENT, THIRUVANANTHAPURAM ISSUED TO THE PETITIONER.
- EXT.P10 COPY OF THE NOTICE DATED 09/11/2009 OF THE RESPONDENTS ISSUED TO THE PETITIONER.
- EXT.P11 COPY OF THE REPLY DATED 14/11/2009 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.1746 of 2010

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Dated this the 3rd day of September, 2015

JUDGMENT

Aggrieved by the inaction on the part of the respondent panchayat in implementing Ext.P9 issued by the Principal Secretary to the Government, the petitioner has come up before this Court.

2. The petitioner is a 70 year old Senior Citizen, who is a farmer by profession. During summer season, he is solely depending on the water from Kooli canal situated by the side of his property. He alleges that about 25 farmers depend on the water of Kooli canal for the irrigation of their crops. For making available sufficient water in the canal, the respondents used to construct a bund across the canal so as to stop the free flow of water through the canal. However, in the last summer season, the respondents did not construct any bund across the said canal to stop the free flow so as to make available sufficient water for irrigation.

3. In the meanwhile, the respondents issued notice dated 29.4.2009 directing the petitioner to stop the extraction of water from the Kooli canal and to fill the chal through which the water flows from the canal to his well. If the only source of water for irrigation is stopped, the entire crops would be destroyed. Therefore, the petitioner submitted a reply on 4.5.2009. However, to the great dismay of the petitioner on 11.5.2009, the respondents and his men entered into his property and forcefully closed the opening from the canal to the petitioner's well and thereby obstructed the water flow.

4. Aggrieved by the above illegality, discrimination and arbitrariness of the respondents, the petitioner submitted a representation before the Minister for Local Self Government Department and the same was forwarded to the Principal Secretary. After conducting a detailed enquiry, by Ext.P9 the Principal Secretary directed the respondents to restore the pipe to its original position so as to allow the free flow of waster from Kooli canal to the

property of the petitioner. However, the said direction has not been complied with by the respondents. It is with this background, the petitioner has approached this Court.

5. Though the respondents have entered appearance, they did not file any counter affidavit.

6. The learned counsel for the petitioner would point out that farmers of the locality, including the petitioner, were depending upon the Kooli thodu for irrigating their cultivation. It was pointed out by the learned counsel for the petitioner that the petitioner was not heard before taking steps to cut the water supply to his property. According to the petitioner, he has no other means to supply water to his paddy farm.

7. The petitioner submitted Exts.P3 and P5 before the respondents. However, the same were not considered and no orders were passed. Aggrieved by the inaction on the part of the respondents, the petitioner submitted representation before the

Minister for Local Self Government Department, which was forwarded to the Principal Secretary of the Local Self Government Institutions, who after conducting detailed enquiry and convinced of true facts directed the respondents to restore the pipe to its original state to flow free flow of water. The said fact was informed by the Under Secretary, Local Self Government Department to the petitioner as per Ext.P9.

8. The grievance projected by the petitioner is that so far no action has been taken by the respondent panchayat to implement Ext.P9. As the action of the respondents in not implementing the directions issued by the Principal Secretary of the Local Self Government Department in Ext.P9 is illegal, this Court is of the view that the petitioner is entitled to get the reliefs prayed for.

In the result, the writ petition is allowed. Exts.P2 and P2(a) are quashed. The respondents are directed to comply with the direction in Ext.P9 by removing the obstruction made by them

against the flow of water from the Kooli thodu to the well of the petitioner situated in Sy. No.128 of Panjal village.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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