

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN  
&  
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WA.No. 903 of 2015 () IN WP(C).22569/2012

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AGAINST THE JUDGMENT IN WP(C) 22569/2012 DATED 27-03-2015  
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APPELLANT(S)/PETITIONER :-  
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M A VELAYUDHAN, AGED 66 YEARS  
S/O.AYYAPPAN, MARATHAMPILLY HOUSE, THOTTIPPAL.P.O  
PUTHUKKADE VIA, TRISSUR.

BY ADV. SRI.ALIAS M.CHERIAN

RESPONDENT(S)/RESPONDENTS :-  
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1. STATE OF KERALA  
REPRESENTED BY THE PRINCIPAL SECRETARY  
DEPARTMENT OF REVENUE, SECRETARIAT  
THIRUVANANTHAPURAM. PIN-695 001.
2. DISTRICT COLLECTOR  
THRISSUR DISTRICT, AYYANTHOLE, THRISSUR. PIN-680 003.
3. ASSISTANT EXECUTIVE ENGINEER  
PUBLIC WORKS DEPARTMENT (ROAD DIVISION)  
IRRINGALAKKUDA, THRISSUR DISTRICT. PIN-680 121.
4. SUKUMARAN, AGED ABOUT 53 YEARS,  
S/O.RAMA MENON, VADAKKEPULLISSERIVEETIL  
THOTTIPPAL.P.O, PUTHUKKADE VIA, TRISSUR, PIN-680 310.
5. VINODHINI, AGED ABOUT 49,  
W/O.SUKUMARAN, VADAKKEPULLISSERIVEETIL  
THOTTIPPAL.P.O, PUTHUKKADE VIA, TRISSUR  
PIN-680 310.

R4 & R5 BY ADV. SRI.M.R.VENUGOPAL

SMT.DHANYA P.ASHOKAN

R1 TO R3 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18-06-  
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &  
A.M. SHAFFIQUE, J.**

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**W.A. No.903 of 2015**  
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**Dated this the 18<sup>th</sup> day of June 2015**

**J U D G M E N T**

**Ashok Bhushan, CJ**

Heard the learned counsel for the appellant and the learned Government Pleader.

2. This writ appeal has been filed against the judgment dated 27.3.2015 in W.P.(C) No.22569 of 2012. The appellant filed the writ petition praying for issue a writ of certiorari quashing Ext.P9. By Ext.P9, the petitioner was directed to vacate the premises, which is Government land, within 48 hours. The petitioner challenged the said order in the writ petition. The said writ petition had been dismissed by the learned Single Judge, against which judgment, this writ appeal has been filed.

3. Learned counsel for the appellant submits that there is no dispute that the land occupied by the petitioner is Government land. The petitioner is in occupation of the said land for the last more than 36 years. It is submitted that there is no urgent need by the Government to get the said land

vacant and no sort of development is proposed to be done in the said property. Hence, the petitioner should have been allowed to continue in the said land. It is further submitted that in fact proceedings were initiated against the petitioner for eviction on account of the complaints given by his neighbours, with whom the petitioner had civil dispute.

4. We have heard the submission made by the learned counsel for the appellant and perused the records.

5. The learned Single Judge in its judgment has noted the details brought on record by means of counter affidavit that the petitioner had, in 2008-'09, applied before the Panchayat for getting 3 cents of land and financial aid for constructing a house therein. Subsequently, he has got a financial aid of ₹75,000/- and also given 3 cents of land in Survey No.424 of Thoppil Village. The petitioner actually started construction.

6. Learned counsel for the petitioner does not dispute the fact that construction was started and according to him, it was only the basement.

7. From the facts brought on record, it is clear that the petitioner was given financial aid from the Scheduled Caste

Development Office. The petitioner was required to construct a house and shift from the Government land. The help given by the petitioner was not utilised and the petitioner continued to occupy the Government land. We do not find any error in Ext.P9, by which, the petitioner was directed to vacate the land. The petitioner being an encroacher has no right to continue in the Government land. The learned Single Judge has given cogent reason for dismissing the writ petition, in which, we do not find any ground to interfere. We, thus, are of the view that the judgment of the learned Single Judge is to be confirmed.

8. Learned counsel for the appellant lastly contended that the petitioner may be given some breathing time to vacate the premises since the petitioner having been continued in the said land for several years and this being the monsoon season, it is very difficult for him to shift the premises. Considering the aforesaid submission, we provide that the petitioner shall vacate the premises on or before 31.8.2015 subject to an undertaking filed by him before the Assistant Executive Engineer within two weeks from today. In any event, if the petitioner files such an undertaking as directed above, he shall

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be allowed to continue till 31.8.2015, failing which, he will be evicted from the land.

Subject to above, this writ appeal is dismissed.

**Sd/-  
ASHOK BHUSHAN  
CHIEF JUSTICE**

**Sd/-  
A.M. SHAFFIQUE  
JUDGE**

//TRUE COPY//

P.A. TO JUDGE

Jvt