

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WA.No. 922 of 2014 ()

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AGAINST THE JUDGMENT DATED 28/03/2014 IN WP(C).NO.27850/2013.**

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APPELLANTS/RESPONDENTS 5 AND 6:

- 1. SECRETARY,
PAMPADY GRAMA PANCHAYATH,
PAMPADY, KOTTAYAM- 686 502.**
- 2. PAMPADY GRAMA PANCHAYATH,
PAMPADY, KOTTAYAM -686 502,
REPRESENTED BY ITS SECRETARY**

BY ADV. SRI.GEORGE SEBASTIAN.

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 4:

- 1. NYDIA PROJECTS & PROPERTIES PVT LTD.,
REGISTRATION NO. U 45200KL 2009 PTC 024815, 8/945,
PIPELINE MALAPARAMBA P.O, CHEVAYOOR KARA,
CHEVAYOOR VILLAGE, KOZHIKODE TALUK,
KOZHIKODE DISTRICT, PIN-673 009,
REPRESENTED BY ITS MANAGING DIRECTOR,
THOMAS PAZHAYAVEETIL KURIAN,
THROUGH ITS MANAGER & AUTHORIZED OFFICER,
A.J. JOHN, AGED 61 YEARS, S/O JOSEPH,
ADUKUZHAYIL HOUSE, KADAVOOR P.O.,
NEDAMAKADU KARA, KADAVOOR VILLAGE,
KOTHAMANGLAM TALUK, PIN- 686 671.**
- 2. DISTRICT COLLECTOR,
KOTTAYAM -686 001.**
- 3. THE REVENUE DIVISIONAL OFFICER,
KOTTAYAM- 686 001.**
- 4. VILLAGE OFFICER, PAMPADY VILLAGE,
PAMPADY, KOTTAYAM- 686 502.**

WA.No. 922 of 2014

5. TAHSILDAR, KOTTAYAM- 686 001.

**R1 BY ADVS. SRI.S.RANJIT (KOTTAYAM),
SRI.GOKUL DAS V.V.H.
R2 TO R5 BY SR. GOVT. PLEADER SRI.P.I. DAVIS.**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 24-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

WA.No. 922 of 2014

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A COPY OF THE GOVERNMENT ORDER BEARING
NO.GO(MS) NO.02/14/ ENVIRONMENT DATED 21/02/2014.**

RESPONDENT'S ANNEXURES:-

**EXT.R1A COPY OF THE COMMUNICATION DATED 15/06/2015 BEARING
NUMBER A2-1407/15 ISSUED BY THE SECRETARY, PAMAPDY
GRAMA PANCHAYATH ALONG WITH ITS ENGLISH TRANSLATION.**

//TRUE COPY//

P.A. TO JUDGE

rs.

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.A.No.922 of 2014

Dated this the 24th day of July 2015

J U D G M E N T

Shaffique, J

This writ appeal is filed against the judgment dated 28/03/2014 in W.P.C.No.27850/2013. Respondents 5 and 6 in the writ petition namely Secretary, Pampady Grama Panchayat and the Pampady Grama Panchayat are the appellants.

2. By the impugned judgment, writ petition filed by the 1st respondent herein was allowed observing that no permission is required from the appellant/Panchayat for removal of soil from the property of the petitioner. It is further observed that if the writ petitioner is intending to make any further development, the same has to be done with the permission of the Panchayat through a proper application.

3. The issue involved in the appeal is regarding the observation made by the learned Single Judge in the matter relating to excavation and removal of soil from the property of the petitioner without a development permit.

4. During the pendency of the writ appeal, by Annexure R1(a), it is clear that the writ petitioner had already filed an

application before the Panchayat seeking development permit for the purpose of excavation and removal of soil.

5. Learned counsel for the 1st respondent submits that an application for development permit contains overall development of the property including excavation and removal of soil has already been filed. Learned counsel submits that In the light of the fact that the writ petitioner had already submitted an application, the Panchayat may be directed to consider the said application in accordance with law and the petitioner do not want to get the benefit of the judgment of the learned Single Judge.

6. Having regard to the above factual situation, we do not think that there is any necessity to proceed with the writ appeal on merits as the writ petitioner has, themselves filed an application seeking development of the entire property, as contended by the Panchayat in the present writ appeal.

With the above observation, this writ appeal is disposed of.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

