

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 3150 of 2009 (Y)

PETITIONER:

**PRABHA MOHAN, AGED 34, S/O.BHASKARAN PILLAI,
VIJAYA BHAVAN, KORATTY,
KOOVAPPADY VILLAGE, KANJIRAPPILLY TALUK,
KURUVAMUZHI.P.O., REP.BY HIS POWER OF ATTORNEY
HOLDER BHASKARAN PILLAI, S/O.LATE SANKARA PILLAI,
AGED 72, VIJAYA BHAVAN KORATTY, KOOVAPPADY VILLAGE,
KANJIRAPPILLY TALUK, KURUVAMUZHI.P.O.
(THE ADDRESS OF THE PETITIONER IN
CAUSE TITLE CORRECTED AS CHENAPPADY KARA
KOOVAPALLY VILLAGE INSTEAD OF (KORATTY)
(KOOVAPPADY) AS PER ORDER DATED 02/07/2012 IN IA. 8737/2012).**

**BY ADVS.SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM**

RESPONDENTS:

- 1. STATE OF KERALA, REP.BY PRINCIPAL
SECRETARY TO DEPARTMENT OF LOCAL ADMINISTRATION,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. ERUMELY GRAMA PANCHAYAT,ERUMELY P.O.,
KOTTAYAM DISTRICT, REP.BY ITS SECRETARY.**

**R,R1 BY GOVERNMENT PLEADER SRI. REJI JOSEPH
R,R2 BY ADV. SRI.V.K.SUNIL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1:** TRUE COPY OF POWER OF ATTORNEY EXECUTED BY PETITIONER IN FAVOUR OF HIS POWER OF ARROTNEY HOLDER ON 7.1.09.
- EXHIBIT P2:** TRUE COPY OF DOCUMENT NO. 3540 DATED 12.12.08 OF ERUMELY SUB REGISTRY OFFICE.
- EXHIBIT P3:** TRUE COPY OF DOCUMENT NO. 3541 DATED 12.2.08 OF ERUMELY SUB REGISTRY OFFICE.
- EXHIBIT P4:** TRUE COPY OF DOCUMENT NO. 3644 DATED 29.12.08 OF ERUMELY SUB SEGISTRY OFFICE.
- EXHIBIT P5:** TRUE COPY OF PHOTOGRAPH OF THE PROPERTY OF THE PETITIONER AND THE ROAD PASSING THROUGH THE NORTHERN SIDE.
- EXHIBIT P6:** TRUE COPY OF REPRESENTATION DATED 6.1.09 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

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SHAJI P. CHALY, J.

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W.P.C.No. 3150 of 2009

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Dated this the 9th day of November, 2015.

JUDGMENT

This writ petition is filed by the petitioner seeking direction to the 2nd respondent Panchayath to abstain from effecting any construction on the northern side of the properties covered by Exts. P2,P3 and P4.

2. Brief facts for the disposal of the writ petition are as follows:

Petitioner is the owner of 27.75 Are of properties in Re-survey No. 3/2/2 and 3/2/3 of Block No.24 of Erumely South Village covered by Exts. P2, P3 and P4 title deeds respectively. It is the contention of the petitioner that, the property of the petitioner is situated on the southern side of Koratty-Kannimala PWD road which is a public high way and which is one of the main high ways proceeding to Sabarimala. It is also contended that, further north of the above road a river is situated. This writ petition is filed by the petitioner, when he reliably understood

that the 2nd respondent Panchayath is proposing to construct a comfort station near to his properties and on enquiry it was revealed that, the Panchayath proposes to construct the comfort station on the northern side of the property of the petitioner and in between the road and the property from east to west and the said comfort station is intended to cater the needs of pilgrims visiting Sabarimala. Therefore, the petitioner apprehends that, if such a construction is made by the 2nd respondent, same will cause obstruction to free ingress and egress of the petitioner to his property which is situated on a higher level from the public road. Confronted with such a situation, petitioner has submitted Ext. P6 representation before the 2nd respondent, and in spite of the same, respondents did not take any action so as to remove the bonafide apprehension of the petitioner.

3. Heard the learned counsel for the petitioner, learned Government Pleader for the 1st respondent and the learned Standing Counsel for the 2nd respondent Panchayath.

4. The learned counsel for the petitioner contended that, on a perusal of Ext. P5 photograph produced, it is categoric and clear that if comfort station as proposed by the 2nd respondent Panchayath is constructed in between the public road and his property innumerable difficulties will be caused to him. On a

perusal of Ext. P5 photograph, I also feel that the road is not that wide enough to construct comfort station on one side of the road. The learned counsel for the Panchayath has submitted that, the Panchayath has put forth such a proposal in view of the public demand made to cater the needs of the pilgrims visiting Sabarimala.

5. Having considered the rival submissions and on perusal of the records, I also feel that if comfort station as proposed is constructed by the side of the road covered by Ext. P5 photograph it will cause difficulties to the petitioner as well as to the vehicular traffic passing through the said PWD road. Looking in that angle, I am of the opinion that, if such an action is implemented by the 2nd respondent, petitioner will be an aggrieved person since access to his property will be blocked by such construction. In that view of the matter, if at all the 2nd respondent has any further intention to proceed with the construction of the comfort station as apprehended by the petitioner, petitioner is entitled to get notice from the Panchayath. If the Panchayath is still proceeding with the said proposal, notice shall be given to the petitioner, allow him to file objection to the same explaining the circumstances under which he will be put to difficulties if the proposal is implemented, hear him and take a decision thereafter only and it is ordered accordingly.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY,
JUDGE.

/True Copy/

P.A. to Judge

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