

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No. 3177 of 2012 (V)

PETITIONER:

MINI.P.B. AGED 45 YEARS
W/O.SABU M.G, MATTATHIL VEEDU, ALAPPATTU LANE
KARUMALLOOR P.O, PIN 683511, PIN 683511
ERNAKULAM DISTRICT

BY ADVS.SRI.THOMAS M.JACOB
SRI.AKHIL K.MADHAV
SRI.T.R.JERRY SEBASTIAN

RESPONDENTS:

1. DISTRICT COLLECTOR
ERNAKULAM PIN 682030

2. REVENUE DIVISIONAL OFFICER,
NORTH PARAVUR PIN 683513

3. SECRETARY,
KARUMALLOOR GRAMA PANCHAYATH, KARUMALLOOR P.O
REPRESENTED BY THE SECRETARY PIN 683511

4. AGRICULTURAL OFFICER
KRISHI BHAVAN, AGRICULTURAL OFFICE, KARUMALLOOR
ERNAKULAM PIN 683511

5. VILLAGE OFFICE
KARUMALLOOR VILLAGE OFFICE, PIN 683511

R1 BY ADV. GOVERNMENT PLEADER

R3 BY ADV. SRI.M.S.UNNIKRISHNAN

R. BY ADV. SRI. ISAAC KURUVILLA ILLIKAL, ADV. COMMISSIONER

R BY STANDING COUNSEL (FOR R3)

R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 PHOTOCOPY OF THE SALE DEED NO.3929/2011 ISSUED BY
SRO,CHENGAMANADU

EXT.P2 PHOTOCOPY OF THE APPLICATION DATED 3-12-2011 SUBMITTED BY
THE PETITIONER BEFORE THE 4TH RESPONDENT

EXT.P3 PHOTOCOPY OF THE CERTIFICATE ISSUED BY THE 5TH
RESPONDENT.

EXT.P4 PHOTOCOPY OF ORDER NO.A2-9673/2011 ISSUED BY THE 3RD
RESPONDENT.

EXT.P5 TRUE COPY OF LAND TAX RECEIPT DT.25.6.12 ISSUED IN THE
NAME OF RAVI AND HIS WIFE RUKIA

EXT.P(A) TRUE COPY OF THE FIRST PROPERTY TAX REMITTED BY RAVI AND
HIS WIFE RUKIA

EXT.P6 TRUE COPY OF LAND TAX RECEIPT DT.25.6.12 ISSUED TO
HANEEFA AND HIS WIFE RAMLATH

EXT.P6(A) TRUE COPY OF RECEIPT DT.22.2.12 FOR REMITTANCE OF
PROPERTY TAX IN THE NAME OF HANEEFA AND RAMLATH.

EXT.P7 TRUE COPY OF LAND TAX RECEIPT DT.25.6.12 ISSUED IN FAVOUR
OF SANTHOSH KUMAR

EXT.P7(A) TRUE COPY OF BUILDING TAX RECEIPT DT.27.7.11 ISSUED BY R3
PANCHAYAT IN FAVOUR OF SANTHOSH KUMAR

EXT.P8 TRUE PHOTOGRAPHS OF THE PROPERTY OF THE PETITIONER AS
WELL AS NEIGHBOURING HOUSES.

EXT.P9 TRUE COPY OF ORDER NO.KLR-5/12-13 SIGNED BY R4 DT.5.10.12

RESPONDENTS' EXHIBITS : NIL

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TRUE COPY

PA TO JUDGE

P.V.ASHA, J.,

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Dated this the 27th day of May, 2015

JUDGMENT

The petitioner is challenging Ext.P4 communication issued by the Panchayat as well as Ext.P9 communication issued by the Agricultural Officer on behalf of the Local Level Monitoring Committee, by which her request for permission for reclamation of land for the purpose of construction of house was rejected. By Ext.P4 communication, the Grama Panchayat informed that the Local Level Monitoring Committee had inspected the site and it was found that the property involved was nilam. This communication was on 30.12.2011, stated to be on the basis of an inspection conducted by the Local Level Monitoring Committee.

2. Ext.P9 is the communication issued on 5.10.2012, in which the reason for rejection are ; (1) it will adversely affect the environmental balance and will affect the cultivation in the adjoining paddy fields and also the drainage system (2) it is surrounded by paddy fields.

3. I heard the learned counsel appearing for the petitioner, the learned Government Pleader as well as the learned counsel appearing for the Panchayat.

4. The petitioner's request is for the purpose of constructing a house; but the Local Level Monitoring Committee has not recommended the same, despite the fact that the extent of her property is only 2.02 Ares and reclamation is permissible for construction of house building for a person having less than 10 cents property in a Grama Panchayat.

5. It is the case of the petitioner that the property is not surrounded by paddy fields. She has furnished photographs of the surrounding property in which residential houses as well as coconut trees are seen. Apart from that, the Advocate Commissioner has, after inspection of the site, filed a report before this Court to the effect that the paddy field is only on the other side of the property and the drainage system will not affect the reclamation.

6. However, the learned Government Pleader opposes the findings in the Commission Report as well as the contentions of

the petitioner, pointing out that the construction of her property already started.

7. However, having regard to the fact that the petitioner's requirement is a residential building and the request made by her is for the purpose of construction and the extent of property owned by her is only 2.02 Ares, I direct the 4th respondent to reconsider the application submitted by the petitioner after conducting a fresh inspection and taking note of the extent of property owned by the petitioner and take further steps based on such re-consideration, in accordance with the rules, within a period of one month from the date of receipt of a copy of this judgment. For the purpose of reconsideration, I quash Exts.P4 and P9 orders issued by respondents 3 and 4. Before issuing orders/recommendations by the Local Level Monitoring Committee, the petitioner shall be given an opportunity of hearing. The petitioner will be free to furnish the copy of the Commission Report produced before this Court as well as any other documents in support of her claim before the Committee. Consequential orders shall be passed within a period of two

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months on the basis of the decision/recommendation. The Panchayat also shall issue fresh orders without any further delay.

The writ petition is disposed of.

Sd/-

**P.V.ASHA,
JUDGE.**

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