

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 3180 of 2012 (V)

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PETITIONER:

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SHINO MATHEW, AGED 36 YEARS  
S/O.MATHEW, KALAPPURACKAL HOUSE,  
KUMARAMANGLAM VILLAGE  
THODUPUZHA TALUK.

BY ADVS.SRI.P.MARTIN JOSE  
SRI.P.PRIJITH  
SRI.ANEESH JAMES  
SRI.S.SREEKUMAR (SR.)

RESPONDENT(S) :

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1. THE STATE OF KERALA  
REPRESENTED BY PRINCIPAL SECRETARY  
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM  
PIN-695001.

2. THE DISTRICT COLLECTOR,  
IDUKKI-685 602.

3. THE THAHASILDAAR,  
THODUPUZHA, PIN-685584.

4. THE VILLAGE OFFICER,  
KUMARAMANGALAM, PIN-685608.

5. THE AGRICULTURAL OFFICER,  
KRISHI BHAVAN, KUMARAMANGALAM  
THODUPUZHA TALUK-685608.

R BY ADV. STATE ATTORNEY  
R-R BY SENIOR GOVERNMENT PLEADER SHRI ABDUL SALAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

WP(C).No. 3180 of 2012 (V)

A P P E N D I X

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF SURVEY PLAN.

EXT.P2: TRUE COPY OF NO OBJECTION CERTIFICATE DT.15.12.2011 ISSUED BY KUMARAMANGALAM GRAMA PANCHAYAT.

EXT.P3: TRUE COPY OF CERTIFICATE DT.25.11.2011 ISSUED BY THE PRESIDENT, KUMARAMANGALAM GRAMA PANCHAYAT.

EXT.P4 SERIES: TRUE COPY OF PHOTOGRAPHS.

EXT.P5: TRUE COPY OF PROCEEDINGS DT.9.11.2011 ISSUED BY THE 5TH RESPONDENT.

EXT.P6: TRUE COPY OF REPRESENTATION DT.9.1.2012 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P7: TRUE COPY OF PROHIBITORY ORDER DT.13.11.2011 ISSUED BY THE 4TH RESPONDENT.

EXT.P8: TRUE COPY OF ORDER NO.4885/F1/12/REVENUE DT.26.04.2012 ISSUED BY THE 1ST RESPONDENT.

EXT.P9: TRUE COPY OF ORDER NO.C9-2128/2012(2) DTD.28.4.2012 ISSUED BY THE 2ND REPONDENT.

RESPONDENTS' EXHIBITS

NIL.

/TRUE COPY/

P.S TO JUDGE

**P.V.ASHA, J.**

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W.P(c) No.3180 of 2012-V  
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Dated this the 16<sup>th</sup> day of June, 2015

**JUDGMENT**

The grievance of the petitioner is against the orders Exts.P5, P7 and P9 by which he is informed that permission cannot be granted for constructing a pathway to his residence, as requested by him since it is contrary to the rules under the Kerala Conservation of Paddy Land and Wet Land Act,2008 and Rules.

2. According to the petitioner, he has to construct a house in his 34.43 ares of dry land adjoining his paddy land having an extent of 24.69. The Panchayat has already granted no objection certificate for construction of residential building, But there is no pathway to this landed property. It is stated that the only means of ingress and egress to the landed property from the public road is through his paddy field which adjoins the landed property on its west. The public road is towards further west of the paddy land. In these circumstances, the petitioner requested for permission to reclaim the paddy land for the

purpose of constructing a pathway with a width of 4 metres. By Ext.P5, the Agricultural Officer informed the petitioner that the Local Level Monitoring Committee had inspected the site and since the committee can recommend for permission for reclamation of paddy field, only for the purpose of constructing residential buildings that too for landless persons, the petitioner's request for reclamation for the purpose of construction of pathway cannot be considered. The District Collector also rejected his request as per Ext.P9 stating that it is not permissible under the provisions of the Act, 2008. In the meanwhile a stop memo was issued as per Ext.P7 to stop reclamation of paddy field for construction of a pathway.

3. While so, the petitioner has approached the Government also by way of Ext.P6 representation pointing out that there is no other pathway to the property except through his paddy field lying contiguous to his landed property. He has stated that tapioca and other cultivation other than paddy are being carried out in the adjacent properties and there is no cultivation of paddy being carried out in any of the adjacent properties. The Government rejected his representation by way of Ext.P8 letter stating that the petitioner's claim cannot be

considered because of the pendency of this Writ Petition.

4. Counter affidavit is filed by the 2<sup>nd</sup> respondent stating that reclamation cannot be permitted for constructing pathway and that the land is suitable for paddy cultivation.

5. I heard Sri. S. Sreekumar, the learned Senior Counsel appearing for the petitioner and the learned Government Pleader.

Since the petitioner has already approached Government through Ext.P6 representation, which is pending on account of the pendency of this Writ Petition, I dispose of the Writ Petition directing the Government to pass appropriate orders on Ext.P6 after affording an opportunity of being heard to the petitioner and with notice to all affected parties, if any, within a period of two months from the date of receipt of a copy of this judgment.

rtr/

Sd/-  
**(P.V.ASHA, JUDGE)**