

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 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WA. No.2732 of 2015 () IN WP(C). No.38262/2015

**-----
AGAINST THE JUDGMENT IN WP(C) NO.38262/2015 OF HIGH COURT
OF KERALA DATED 16-12-2015.**

APPELLANT(S):

**M/S.MARYMATHA CONSTRUCTION COMPANY,
MARYMATHA SQUARE, ARAKKUZHA ROAD,
MUVATTUPUZHA P.O., ERNAKULAM-686 661,
REP; BY ITS PARTNER SABU CHERIAN AGED 44 S/O. M.P. CHERIAN,
MADECKKAL HOUSE, MUVATTUPPUZHA P.O., ERNAKULAM-686 661.**

BY ADV. SRI.P.SHANES METHAR

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, ALAPPUZHA-688001.**
- 2. PRINCIPAL AGRICULTURAL OFFICER,
AGRICULTURAL DEPARTMENT,
COLLECTORATE CAMPUS, ALAPPUZHA-688001.**
- 3. CHIEF ENGINEER OFFICE OF CHIEF ENGINEER,
KUTTNAD DEVELOPMENT PACKAGE, ALAPPUZHA-688124.**
- 4. SUPERINTENDING ENGINEER,
OFFICE OF SUPERINTENDING ENGINEER,
KUTTNAD DEVELOPMENT CIRCLE, CHENGANNUR-688124.**
- 5. EXECUTIVE ENGINEER,
IRRIGATION DEPARTMENT, KUTTNAD DEVELOPMENT,
MONCOMBU, KUTTANAD-688124.**
- 6. ASSISTANT EXECUTIVE ENGINEER,
IRRIGATION SUB DIVISION,
MONCOMBU, KUTTANAD-688124.**

WA. No.2732 of 2015 ()

:2:

**7. ASSISTANT ENGINEER,
K D SECTION, THATHAMPALLY P.O.,
ALAPPUZHA - 680126.**

BY SPECIAL GOVERNMENT PLEADER SMT.GIRIJA GOPAL

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

KRJ

ASHOK BHUSHAN, C.J

&

A.M.SHAFFIQUE, J.

= = = = =

W.A No.2732 of 2015

= = = = =

Dated this the 18th day of December, 2015

JUDGMENT

Shaffique, J

This appeal is filed by the petitioner against judgment dated 16.12.2015 in W.P(C) No.38262 of 2015 by which learned Single Judge disposed of the writ petition directing the District Collector to take a decision in the matter after adverting to Ext.P3 and convening a meeting of all concerned within a period of two weeks.

2. Petitioner had approached this Court seeking for a direction to respondents 1 to 7 to stop dewatering activities commenced in Rani block Padasekharam of Kuttanad and for a further direction to respondents 1 and 2 not to dewater the said Padasekharam unless proper clearance is obtained from respondents 3 to 7. According to the petitioner, he is a works contractor who was awarded with the construction of Kuttanad Package-cutting and opening of kayal between Rani and Chithira blocks, protecting the outer bund of Rani and Chithira blocks. It is alleged that he commenced the work on 21.7.2010 with the completion period of 18 months and on account of unprecedented rain and flood, the work could not be proceeded

further. It is stated that the construction of *Kochar* side bund is completed recently and earth and mud filling is not yet settled, which would take a minimum of 10 to 12 months for settlement.

3. It is stated that the 4th respondent in terms of Ext.P3 observed that the area in question was not cultivated for more than 22 years and it is to make cultivation that the present bund is constructed. It is further stated that the first respondent on 11.12.2015 has visited the site and agreed with the second respondent to dewater Rani block Padasekharam. This, according to the petitioner, will lead to collapse of newly constructed bund.

4. The learned Single Judge did not interfere with the decision making process of the District Collector in the matter. However, appropriate directions have been issued to the District Collector to consider the matter in the light of Ext.P3. Having heard the learned counsel for the appellant, we do not think that the learned Single Judge has committed any error in disposing of the writ petition.

5. Ext.P3 is only a letter issued by the Assistant Engineer to the Assistant Executive Engineer which is an intra-office communication of the irrigation department. The issues relating to dewatering of Padasekharam are all matters of technical nature which cannot be adjudicated by this Court. If at all the petitioner

has any grievance with reference to the same he can take up the matter before the competent authorities. Since the learned Single Judge had already directed Ext.P3 to be considered by the District Collector, the petitioner is not entitled to any other reliefs. Learned counsel for the appellant seeks for staying the dewatering process until the matter is considered by the District Collector.

We do not think that this Court will be justified in interfering with the manner in which steps have been taken by the District Collector taking into account the larger concept of Padasekharam being cultivated. These are all matters which has to be done done within a time frame, which cannot be stalled by this Court by interfering with such issues. We do not find any ground to interfere with the judgment of the learned Single Judge. Accordingly, the writ appeal is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M.SHAFIQUE
JUDGE