

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 248 of 2015 (E)

PETITIONER:

**V.P.JACOB, S/O.PORINCHU,AGED 66 YEARS,
649, VADAKKOODAN HOUSE,
KUMARANELLOOR.P.O, WADAKKANCHERRY,
THRISSUR-680 590.**

**BY ADVS.SRI.SHAJI P.CHALY
SRI.R.SANJITH**

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 011.**
- 2. THE SUB COLLECTOR,
AYYANTHOLE, THRISSUR-680 003.**
- 3. PUBLIC WORKS DEPARTMENT,
REPRESENTED BY CHIEF ENGINEER (ROADS DIVISION),
THIRUVANANTHAPURAM-695 033.**
- 4. THE ASSISTANT EXECUTIVE ENGINEER,
THE PUBLIC WORKS DEPARTMENT, ROADS SUB DIVISION,
THALAPILLY, THRISSUR-680 001.**
- 5. ASSISTANT ENGINEER,
PWD ROADS SECTION, WADAKKACHERRY,
THRISSUR-680 582.**
- 6. WADAKKANCHERRY GRAMA PANCHAYAT,
WADAKKANCHERY.P.O, THRISSUR-680 582
REPRESENTED BY ITS SECRETARY.**
- 7. TAHSILDAR,
THALAPPILLY TALUK, THRISSUR-680 001.**
- 8. LAND REVENUE COMMISSIONERATE,
PUBLIC OFFICE BUILDING, OPP.MUSEUM, REVENUE COMPLEX,
THIRUVANANTHAPURAM-695 033.**

R1 TO R5,R7 & R8 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 248 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1	TRUE COPY OF THE JUDGMENT DATED 01/03.2013 IN WP(C). NO.20188/07
EXT.P2	TRUE COPY OF THE JUDGMENT IN WP(C).NO.17216/2007 DATED 4/3/13
EXT.P3	TRUE COPY OF THE ORDER BEARING NO. 6672/2013
EXT.P4	TRUE COPY OF THE APPEAL MEMORANDUM AND STAY PETITION
EXT.P5	TRUE COPY OF THE NOTICE BEARING NO.W/21/2011 DATED 31/12/2014.

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.248 OF 2015
.....

Dated this the 7th January, 2015

J U D G M E N T

Steps taken by the respondents against the petitioner under the relevant provisions of the Kerala Land Conservancy Act, alleging illegal encroachment into the Government property are under challenge. The case of the petitioner is that the allegation levelled against the petitioner is totally wrong and unsustainable. The facts and figures pointed out before the concerned authority were not properly considered, leading to Ext.P3 order. Being aggrieved of the said proceedings, the petitioner has preferred Ext.P4 memorandum of appeal; along with a petition for stay, which are pending consideration before the 8th respondent/Land Revenue Commissioner. While so, the petitioner has been served with Ext.P5 notice dated 31.12.2014 demanding vacant surrender; lest the construction effected by the petitioner should be demolished at the risk and cost of the petitioner. This in turn is under challenge in this writ petition .

2. Heard the learned Government Pleader as well.

3. As a matter of fact, Ext.P3 is the order passed by the second respondent/Sub Collector in exercise of the power of the appellate authority under the Statute. This being the position,

the further course of challenge, if at all any, by of Revision is before the District Collector, in view of the law declared by this Court in **Venkitasubban vs. Kerala Lok Ayukta** [2013 (3) **KLT 698**]. The learned Counsel for the petitioner points out that the proceedings filed by the petitioner have already been numbered as **LR(K)4-342/15**.

4. After hearing both the sides, this Court finds that the petitioner is entitled to pursue the statutory remedy and since the petitioner has already moved the authorities under the Statute, coercive proceedings by way of Ext.P5 are not liable to be pursued till appropriate orders are passed by the competent authority.

In the above circumstance, the writ petition is disposed of, directing the 8th respondent/Land Revenue Commissioner to deal with the matter, causing the same to be considered by the competent authority and appropriate orders shall be passed in accordance with law, after affording an opportunity of hearing to the petitioner and the 6th respondent/Grama Panchayat, which shall be done at the earliest, at any rate, within two months from the date of receipt of a copy of the judgment. 'Status quo'

shall be maintained till such time. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the 8th respondent/Land Revenue Commissioner for further steps.

P.R.RAMACHANDRA MENON
JUDGE

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