

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(C).No. 394 of 2015 (Y)

PETITIONER :

**VINOD MATHEWS, AGED 50 YEARS,
S/O.LATE M.M.MATHAI, MANKULAGARA HOUSE,
PERIGARA P.O., THIRUVALLA,
NOW RESIDING AT MANKULANGARA HILL VIEW MANSION,
MUTHOOR P.O, THIRUVALLA,
PATHANAMTHITTA DISTRICT, PIN -689 107.**

**BY ADVS.SRI.K.N.RADHAKRISHNAN(THIRUVALLA)
SALIM KAMBISSERI**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
PATHANAMTHITTA DISTRICT, PIN -689 645**
- 2. REVENUE DIVISIONAL MAGISTRATE,
THIRUVALLA, PATHANAMTHITTA DISTRICT, PIN- 689 101**
- 3. VILLAGE OFFICER,
PERIGARA P.O, THIRUVALLA, PIN- 689 101**

R1 TO R3 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 394 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 TRUE COPY PETITION SUBMITTED BEFORE THE SECOND
RESPONDENT DATED 20-05-2013**

**EXHIBIT P2 COPY OF REPORT & SKETCH OF THE 3RD RESPONDENT
DATED 27-12-2013**

**EXHIBIT P3 COPY OF DECISION OF THE LOCAL MONITORING COMMITTEE
DATED 26-12-2013**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 394 of 2015

Dated this the 12th day of January, 2015

J U D G M E N T

The petitioner is the owner of the land having an extent of 42.20 Ares in Re-Survey No.665/5, Block No.6 of Peringara Village which admittedly is a paddy land. But it is stated that no cultivation is being effected in the said land for nearly 1½ decades. The petitioner's residence is situated in the land located almost in the middle of the property as aforesaid. The petitioner was making use of the property belonging to the brother, to have access to the said dry land. The brother of the petitioner has effected some constructions in his property, by virtue of which the petitioner is not in a position to have access to his property. It is in the said circumstance that the petitioner has sought for permission as per Ext.P1 to fill a portion of the paddy land belonging him, and to make use of the same, as access, to reach the residential property. Pursuant to the said application, a report was called for. Ext.P2 is the report of the Village Officer certifying the fact that no cultivation is being effected in the property for more than 10 years and that the grievance of the petitioner is

genuine. A sketch has also been prepared by the Village Officer and attached it along with Ext.P2. The Local Level Monitoring Committee has also conducted an inspection and certified the genuineness of the claim put forth by the petitioner as per Ext.P3 dated 26.12.2013. The prayer is to cause the application to be considered and finalized in accordance with the relevant provisions of law.

2. The learned Government Pleader appearing for the respondents submits that, the 2nd respondent could be directed to place Ext.P1 along with Exts.P2 and P3 before the competent authority, who is the District Level Authorised Committee, forthwith and the said committee might be directed to pass appropriate orders, in accordance with law, for redressal of the grievance of the petitioner. The learned Government Pleader also points out that, the power vested with the District Level Authorised Committee is only to permit filling up the land for the purpose of residential building.

3. Considering the nature of relief sought for, it has become a necessity for the petitioner to have access to the residential building and as such, the filling exercise now sought to

be effected is hereby declared as part of the residential purpose.

4. In the said circumstances, the 2nd respondent is directed to consider and pass appropriate orders on Ext.P1, in accordance with law, as expeditiously as possible at any rate within two months, subject to appropriate conditions to be incorporated so as to safeguard the interest of the Revenue as well, after affording an opportunity of hearing. It is also made clear that this will not have any effect with regard to the adjacent property remaining as a paddy land or with regard to the nature and use of the said property. The petitioner shall also file an affidavit before the 2nd respondent to the effect that the adjoining property which is lying as a paddy land will not be converted by changing the use, nature, lie or location in any manner.

The writ petition is disposed of, accordingly. The petitioner shall produce a copy of this judgment along with a copy of this writ petition before the concerned respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

The words *“In the said circumstances, the 2nd respondent is directed to consider and pass appropriate orders on Ext.P1”* occurring in the 1st and 2nd lines of 4th paragraph of the judgment are corrected and substituted as *“In the said circumstances, the 2nd respondent is directed to hand over Exhibit P1 and other records to the Chairman of the District Level Authorized Committee and the Chairman is directed to consider and dispose the same”*.

Vide order dated 25.02.2015 in I.A.No.2303/2015 in W.P.(C) No.394/2015.

Sd/-

Registrar (Judicial)