

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No.541 of 2015 (P)

PETITIONER:

**K.SUNDARAN, AGED 54 YEARS,
S/O.IMBICHIKKU, RESIDING AT
KARIMBANAKKAL HOUSE, ERAVANNOOR P.O,
MADAVOOR VILLAGE, KOZHIKODE DISTRICT.**

BY ADV. SMT.BIMALA BABY

RESPONDENT(S):

- 1. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
KOZHIKODE - 673001.**
- 2. THE DEPUTY TAHSILDAR,
TALUK OFFICE, KUNNAMANGALAM - 673 571.**
- 3. THE VILLAGE OFFICER,
MADAVOOR VILLAGE, KOZHIKODE - 673 585.**
- 4. MADAVOOR GRAMA PANCHAYAT,
ERAVANNOOR P.O, KOZHIKODE.
REPRESENTED BY ITS SECRETARY - 673 585.**
- 5. DEVAKI, ARIPOYILIL HOUSE,
ERAVANNOOR P.O, MADAVOOR - 673 585.**

R1 TO R3 BY SENIOR GOVT. PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 - TRUE COPY OF THE PHOTOGRAPH SHOWING NOONJIKARA POND.
- EXT.P2 - TRUE COPY OF THE PHOTOGRAPH SHOWING THE PATHWAY
CONNECTING THE PANCHAYAT ROAD WITH THE NOONJIKARA POND.
- EXT.P3 - TRUE COPY OF THE REPRESENTATION DATED 28-4-2012 SUBMITTED
BEFORE THE 1ST RESPONDENT ALONG WITH ITS ENCLOSURES.
- EXT.P4 - TRUE COPY OF THE REPORT OF THE 2ND RESPONDENT
DATED 5-12-2012.
- EXT.P5 - TRUE COPY OF THE ORDER DATED 22-7-2013 IN A 5129/12 OF THE
1ST RESPONDENT.
- EXT.P6 - TRUE COPY OF THE ORDER DATED 4-9-2014 PASSED BY THE
1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 541 of 2015

Dated this the 8th day of January, 2015

JUDGMENT

The petitioner is claiming some right as a member of the general public to use the pond shown in Ext.P1 photographs. The petitioner and others are allegedly making use of a pathway through the property of the 5th respondent to have access to the said pond.

2. According to the petitioner, a 'samithy' has been constituted to establish the rights over the pathway and a complaint was preferred before the 1st respondent wherein a preliminary order has been passed under Section 133 of the Cr.P.C vide Ext.P5 dated 22.7.2013. After considering the report obtained from the concerned authorities and after completion of service of notice, the 1st respondent observed that, the case projected in the complaint was not established. The fifth respondent appeared and denied the obstruction of the public pathway and produced relevant documents to establish her rights. The report of the Village Officer also is to the effect that, no public pathway was seen at the time of inspection. It was

accordingly that the finding was rendered and final order was passed as borne by Ext.P6 on 4.9.2014. It is also made a mention therein that, if at all any right is in existence, it is open for the petitioner/complainant to approach the Civil Court for redressal of the grievance. This in turn is under challenge in this writ petition.

3. After hearing the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents 1 to 3 and after going through the materials on record, this Court does not find any reason to interfere with the observations made by the 1st respondent in Ext.P6. This Court does not express any opinion with regard to the merits or alleged rights if at all any, as to the alleged existence of the pathway. The writ petition is dismissed declining interference, making it clear that the petitioner is at liberty to pursue appropriate remedy in accordance with law for establishing the case sought to be projected by him.

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-