

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 688 of 2015 (I)

PETITIONER:

**YESHUDAS, AGED 61 YEARS,
S/O.JOSEPH NADAR, RESIDING AT
SHIBU SADANAM, CHEVIYAMKODE,
THONNIYOOR MURI, PRUMKULAM VILLAGE,
KATTAKKADA, THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.A.CHANDRA BABU
SRI.K.C.BINU**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
CIVIL STATION, KUDAPPANAKUNNU P.O.,
THIRUVANANTHAPURAM, PIN - 695 043.**
- 2. THE REVENUE DIVISIONAL OFFICER,
CIVIL STATION, KUDAPPANAKUNNU P.O.,
THIRUVANANTHAPURAM, PIN - 695 043.**
- 3. THE VILLAGE OFFICER,
PERUMKULAM VILLAGE, PERUMKULAM,
URIYACODE P.O.,
THIRUVANANTHAPURAM DISTRICT, PIN - 695 572.**
- 4. THE STATION HOSUE OFFICER,
KATTAKKADA POLICE STATION, KATTAKKADA,
THIRUVANANTHAPURAM, PIN - 695 572.**

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 688 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE SURVEY PLAN ISSUED BY THE
SUPERINTENDENT OF SURVEY (RE-SURVEY), NEDUMANGAD.
- EXHIBIT P2: TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT
DATED 28.09.2006.
- EXHIBIT P3: TRUE COPY OF THE LETTER 20.02.2006 ISSUED BY THE WARD
MEMBER, KARIYAMCODE WARD, POOVACHAL GRAMA PANCHAYATH
TO THE 3RD RESPONDENT.
- EXHIBIT P4: TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER
DATED 09.07.2014.
- EXHIBIT P5: TRUE COPY OF THE REPORT OF THE 3RD RESPONDENT
DATED 14.08.2014.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 688 of 2015

Dated this the 21st day of January, 2015

JUDGMENT

The reliefs sought for in the writ petition are in the following terms:

“i. To issue a writ of certiorari or any other appropriate writ, direction or order quashing Ext.P5 as arbitrary, illegal, unreasonable and unjust.

ii. To issue a writ of mandamus or any other appropriate writ, direction or order directing the respondents to restore the width of the property as per the Ext.P1 survey plan.

iii. To issue a writ of mandamus or any other appropriate writ, direction or order directing the respondents to evict the encroachment from the pathway as it lies in the government puramboke land.”

2. The petitioner contends that, substantial encroachment has been made to the Government property by the occupants of the land whereby the pathway having a width of 3m has been considerably reduced which in turn has quite adversely affected the rights and interests of the petitioner to enjoy his property. Met with the situation, the petitioner approached the 2nd respondent by filing Ext.P4 complaint and to restore the width of the pathway as per Ext.P1 survey plan. The second respondent forwarded the same to the third respondent for verification and report. Without conducting proper enquiry, the 3rd respondent

has prepared and submitted Ext.P5 report, which in fact runs contrary to the contents of Ext.P1 survey plan and also the report submitted by the concerned Ward Member vide Ext.P3. This made the petitioner to approach this Court by raising the challenge and seeking for the reliefs as mentioned above.

3. Heard the learned Government Pleader as well.

4. Considering the facts and circumstances, the 2nd respondent is directed to conduct a site inspection with notice to all the parties concerned including the petitioner herein and take appropriate steps passing appropriate order on Ext.P4 in accordance with law. It is open for the 2nd respondent to cause measurement of the property with the help of Taluk Surveyor and the proceedings as above shall be finalized at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment.

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

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