

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 4518 of 2012 (L)

PETITIONER :

**M.M. LUCA,
AGED 75 YEARS, S/O.MATHAI, MUNDUVAYALIL HOUSE
POOKOTHUMANA P.O., RAMACHAM PADAM, CHUNGATHARA
NILAMBUR.**

**BY ADVS.SRI.A.T.ANILKUMAR
SMT.V.SHYLAJA**

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR
MALAPPURAM, PIN – 676 505.**
- 2. THE REVENUE DIVISIONAL OFFICER
PERINTHALMANNA, MALAPPURAM, PIN – 679 322.**
- 3. THE THAHASILDAR
NILAMBUR TALUK, NILAMBUR,
MALAPPURAM, PIN – 679 330**
- 4. TALUK SURVEYOR
NILAMBOOR TALUK, NILAMBUR,
PIN – 679 330**
- 5. VILLAGE OFFICER
CHUNGATHARA VILLAGE, NILAMBUR,
PIN – 679 350.**
- 6. CHUNGATHARA GRAMA PANCHAYATH
REP. BY SECRETARY, CHUNGATHARA,
NILAMBUR TALUK, PIN – 679 330**

R1 TO R5 BY GOVT. PLEADER SMT. SUNITHA VINOD

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1 & P1(a): THE TRUE COPY OF THE COMPLAINT DATED 21/7/2010 WITH RECEIPT.

EXHIBIT P2 & P2(a): THE TRUE COPY OF THE RESURVEY SKETCH SHOWING THE ACTUAL WIDTH AND LENGTH OF THE “KUNNATH-KUTTIMUNDA-RAMACHANPADAM” ROAD.

EXHIBIT P3: THE TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT TO THE ADDITIONAL SECRETARY, THIRUVANANTHAPURAM AS A REPLY TO THE COMPLAINT SUBMITTED BY THE PETITIONER IN THE COMPLAINT REDRESSAL CELL.

EXHIBIT P4: THE TRUE COPY OF THE REPRESENTATION DATED 31/1/2011.

EXHIBIT P5: THE TRUE COPY OF THE REPORT OF THE 5TH RESPONDENT.

EXHIBIT P6: THE TRUE COPY OF THE LETTER DATED 18/5/2010.

EXHIBIT P7: THE TRUE COPY OF THE LETTER DATED 11/3/2011.

EXHIBIT P8: THE TRUE COPY OF THE JUDGMENT OF THE HON'BLE SUPREME COURT IN CIVIL APPEAL NO.1132/2011 (JAGPAL SINGH AND OTHERS VS. STATE OF PUNJAB & OTHERS).

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 4518 of 2012

Dated this the 4th day of February, 2015

J U D G M E N T

The petitioner approached this Court alleging that though the 1st respondent, by Ext.P7, had directed the 3rd respondent to evict the unauthorized trespassers into the road by effecting proper measurement, no action has been taken by the authorities regarding the same.

2. The petitioner alleges that he and his neighbours are using a road starting from Chungathara Town to Ramachampadam by name, 'Kunnath-Kuttimunda-Ramachampadam Road'. According to the respondents, as per the revenue records, the said road is having 2 km length and a width varying from 6.5 meter to 9.5 meter. His grievance is that the residents on either sides of the road trespassed into the road and erected fencing reducing a portion of the road into their possession making the traffic through the said road

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difficult. They also allege that the survey stones installed on the side of the road demarcating the boundaries were also removed by the encroachers. The petitioner along with other neighbours submitted Exts.P1 and P1(a) complaints before the 6th respondent. According to the petitioner, the 1st respondent directed the 4th respondent to conduct measurement of the road and to evict the unauthorized trespassers from the road. As per Ext.P7, the 1st respondent directed the 3rd respondent also to take steps to evict the unauthorized trespassers. The petitioner alleges that Ext.P7 direction did not evoke any positive response. It is with this background, the petitioner has come up before this Court.

3. Today, when the matter came up for hearing, the learned Government Pleader submitted that the 4th respondent could not succeed in his attempt as there was obstruction from the local people, and failed to implement Ext.P7.

As the 4th respondent is duty bound to obey the

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directions in Ext.P7, this Court is of the view that this writ petition can be disposed of directing the 4th respondent to comply with the directions in Ext.P7.

Therefore, the writ petition is disposed of directing the 4th respondent to comply with the directions in Ext.P7, if necessary, with the aid of the Police.

Sd/-
A.V. RAMAKRISHNA PILLAI,
JUDGE

bka/-