

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 852 of 2015 (F)

PETITIONER:

CHANDRAKALA, AGED 75 YEARS,
W/O. P.K. ANANDAN, PERUMPALLYPARAMBU POONATH HOUSE,
KUMARANASAN NAGAR JUNCTION, KATHRIKKADAVU,
ELAKULAM VILLAGE, KOCHI-682 017.

BY ADVS.SRI.V.B.NARAYANAN
SRI.M.P.HARIKUMARAN PILLAI
SRI.C.SIVADAS

RESPONDENTS:

1. CORPORATION OF COCHIN,
REPRESENTED BY COMMISSIONER, CORPORATION OF COCHIN,
ERNAKULAM-682 031.
2. THE EXECUTIVE ENGINEER,
CORPORATION OF COCHIN, ERNAKULAM-682 031.

R1 & 2 BY ADV. SRI.K.ANAND, SC, COCHIN CORPORATION
R BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION

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

APPENDIX

PETITIONER'S EXHIBITS :

P1. TRUE COPY OF THE APPLICATION BY THE PETITIONER TO THE 1ST
RESPONDENT DATED 3-9-2003.

P1A. TRUE ENGLISH TRANSLATION OF EXT.P1.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 852 of 2015 (F)

Dated this the 2nd day of February, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Corporation, apart from perusing the record.

2. Briefly stated, the petitioner is said to have 23 cents of land in Survey No. 319/2 of Elamkulam village. Abutting her land, there is a pathway being used by about 10 families. The grievance of the petitioner is that now the respondent Corporation has started constructing a canal on either side of the pathway without raising the level of the pathway itself. Apprehending that it would lead to inundation, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner has strenuously contended that there is, in the first place, no need for any canal at all; secondly, he has contended that if the canal is built, it leads to flow of more water, which eventually results in

stagnation of water to the inconvenience of the people using the pathway. According to him, unless the Corporation raises the level of the road over and above the canal, which presently stands at a higher level, there ought not to have been any effort on the part of the Corporation to construct the canal.

4. The learned learned Standing Counsel for the respondent Corporation, in tune with the averments made in the counter affidavit filed by the Corporation, has submitted that there is very urgent need to have a canal constructed. He has further submitted that the construction of a canal is preliminary work, which will be followed by other measures to lay a concrete road, thereby ensuring that no water logging or inundation takes place.

5. It is very evident that the Corporation, to begin with, has started constructing a canal. At this juncture, it cannot be presumed that they are not going to take other steps to obviate the difficulty of any water logging or inundation. In my considered view, the writ petition is premature and deserves to

be dismissed. It is made clear that after the completion of the canal and also the concretising of the pathway, if the petitioner has still any grievance with regard to her apprehension of water logging or inundation, she is at liberty to take recourse to appropriate legal remedies.

With the above observation, this writ petition stands dismissed. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

