

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 1467 of 2015 (G)

PETITIONER(S) :

ABOOBACKER MOULAVI,
AGED 52 YEARS, S/O ALIYAR, CHENAKKARA, CHITTAKKUDATHU HOUSE,
ALUVA EAST VILLAGE, ERNAKULAM-683 101.

BY ADVS.SRI.PAUL K.VARGHESE
SMT.A.A.GEETHA

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY (REVENUE),
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE DISTRICT COLLECTOR OF ERNAKULAM,
CIVIL STATION, KAKKANAD P.O., ERNAKULAM, COCHIN-682030.
3. THE ADDITIONAL TAHSILDAR,
OFFICE OF TAHSILDAR, ALUVA, ERNAKULAM, PIN:683 101.
4. EDATHALA GRAMA PANCHAYATH,
EDATHALA P.O., ERNAKULAM DISTRICT, PIN:683 561,
REPRESENTED BY ITS SECRETARY.

*ADDL. R5 TO R7 ARE IMPEADED

- R5. CHANDRAN K.G.,
AGED 50 YEARS, S/O.GOVINDAN, KALLIKATTUKUDI, ALUVA EAST VILLAGE,
EDATHALAKARA, EDATHALA P.O., ERNAKULAM DISTRICT,
PIN CODE - 683 561.
- R6. MARIAMMA JOSEPH,
AGED 67 YEARS, W/O.JOSEPH, PULIYAEDATHU SIVAGIRI THEVAKKAL,
VKC P.O., ERNAKULAM, COCHIN - 682 021.
- R7. ASHOKAN,
AGED 38 YEARS, S/O.ITTICA, THANTHONIMUKKU, ALUVA EAST VILLAGE,
EDATHALAKARA, EDATHALA P.O., ERNAKULAM DISTRICT, PIN - 683 561.

(*ADDL.R5 TO ADDL.R7 ARE IMPEADED AS PER ORDER DATED 11.02.2015 IN IA 1841/15.)

R4 BY ADV. SRI.ANIL K.MOHAMMED
RADDL BY ADV. SRI.K.C.ELDHO
RADDL BY ADV. SRI.ANEESH JAMES
RADDL BY ADV. SRI.JIJO THOMAS
BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-10-2015,
ALONG WITH WPC NO.27187/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1L: THE RELEVANT PAGE OF ENCUMBRANCE CERTIFICATE ISSUED FROM THE REGISTRAR'S OFFICE ALUVA IN RESPECT OF THE SAID PROPERTY FOR THE PERIOD 1/1/1967 TO 31/12/1980.
- EXHIBIT P2: A TRUE COPY OF THE ORDER PASSED BY THE ADDITIONAL TAHSILDAR ALUVA DATED 9.5.2013.
- EXHIBIT P3: A TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR DATED 3.2.14.
- EXHIBIT P4: A TRUE COPY OF THE PROCEEDINGS OF THE TAHSILDAR ALUVA DATED 7.3.14.
- EXHIBIT P5: A TRUE COPY OF HEARING NOTE SUBMITTED BY THE PETITIONER BEFORE THE TAHSILDAR ALUVA DATED 7.11.2013.

RESPONDENT(S) ' EXHIBITS :

- EXHIBIT R6(A): A TRUE COPY OF THE ORDER DATED 07/03/2014 ISSUED BY THE TAHSILDAR, ALUVA.
- EXHIBIT R6(B): A TRUE COPY OF THE RELEVANT PAGE OF THE BTR.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P(C)Nos. 1467 of 2015 & 27187 of 2014

Dated this the 15th day of October, 2015

J U D G M E N T

These writ petitions are pertaining to implement the decision of the District Collector, Ernakulam to locate ankanwadi No.78 in the Edathala Grama Panchayath. It is, admittedly, this ankanwadi is at present functioning in a building, which is in a dilapidated condition. Writ petitioners in W.P(C) No.27187 of 2014 approached this Court with another writ petition No.27095 of 2013 and this Court directed the District Collector to take appropriate action. Thereafter, the District Collector had taken a decision on 3.2.2014. It is seen from the order of the District Collector that the construction has been started in another location, which is a Government land. However, the writ petitioner in WP(C) No.1467 of 2015 has raised a claim in respect of the above land. Therefore, the District Collector referred the matter to the Tahsildar to decide upon

the claim of the writ petitioner in W.P(C) No.1467 of 2015. Thereafter, the Tahsildar, after adverting to the claim of the above writ petitioner, found that the above writ petitioner failed to substantiate his claim that it is a private land.

2. W.P(C) No.1467 of 2015 is filed challenging the decision of the Tahsildar treating it as a Government land. WP(C) No.27187 of 2014 is filed seeking a direction to implement the decision of the District Collector and to complete the proceedings to construct the ankanwadi and transfer the same to the Panchayath.

3. This Court had gone through the order of the Tahsildar. The Tahsildar has given an opportunity to the writ petitioner in W.P(C) No.1467 of 2015 to produce the document. The Tahsildar, with relevant records, verified and found out that this is a Government land. This is a factual finding. Absolutely, there is nothing on record to discredit the finding of the Tahsildar. Therefore, this Court is of the view that the challenge made by the writ petitioner in W.P(C) No.1467

of 2015 fails as he has not substantiated his claim for the land in the proceedings. It is open for the petitioners to challenge the decision of the Tahsildar in appropriate manner before higher authority. In that view of the matter, WP(C)No.1467 of 2015 is dismissed subject to any decision of the appellate authority.

4. In respect of the relief in WP(C) No.27187 of 2014, this Court is of the view that the second respondent shall finalise the construction within a period of six months from the date of receipt of a copy of this judgment, unless the decision of the Tahsildar is stayed by the appellate authority. It is made clear that any construction would depend upon the challenge to be made by the petitioner in W.P (C) No.1467 of 2015 against the decision of the Tahsildar.

The above writ petitions are disposed of as above.

MBS/

A.MUHAMED MUSTAQUE,
Judge

WP(C).Nos.1467 of 2015 & 27187 of 2014

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