

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 1830 of 2015 (C)

PETITIONERS:

1. SANIYA M BABU MOOPAN, AGED 23,
D/O. M.A.M.BABU MOOPAN, CC 35/1617B,
JAWAHARLAL NEHRU STADIUM ROAD,
PALARIVATTOM, POONITHURA VILLAGE,
ERNAKULAM DISTRICT-682 025.
2. ATHIF AHAMED MOOPAN, AGED 24,
S/O. AHAMED MOOPAN, CC 35/1617B,
JAWAHARLAL NEHRU STADIUM ROAD,
PALARIVATTOM, POONITHURA VILLAGE,
ERNAKULAM DISTRICT-682 025.

BY ADVS.SRI.PRAVEEN K. JOY
SRI.T.A.JOY

RESPONDENTS:

1. PATHIYOOR GRAMA PANCHAYATH
PATHIYOOR, ALAPPUZHA-688 001
REP.BY SECRETARY.
2. THE DISTRICT COLLECTOR,
ALAPPUZHA - 688 001.
3. THE ADDITIONAL TAHSILDAR,
KARTHIKAPPALLY,
ALAPPUZHA DISTRICT-688 001.
4. THE VILLAGE OFFICER, KEERIKKAD
VILLAGE, ALAPPUZHA DISTRICT-688 001.

R2 TO R4 BY GPVT. PLEADER SMT.K.A.SANJEETHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 1830 of 2015 (C)

PETITIONER'S EXHIBITS:

EXT. P1 : THE TRUE PHOTOCOPY OF THE JUDGMENT IN WPC NO.31361/14 OF THIS HON'BLE COURT.

EXT. P2 : THE TRUE PHOTOCOPY OF TH SALE DEED NO.1666/14 DATED 17.12.14 OF SRO, KARIYILAKULANGARA OF THE PETITIONER.

EXT. P3 : THE TRUE PHOTOCOPY OF THE REPRESENTATION BEFORE THE 1ST RESPONDENT.

EXT. P4 : THE TRUE PHOTOCOPY OF THE APPLICATION BEFORE THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.1830 of 2015 C

Dated this the 28th day of January, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader for respondents 2 to 4, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioners are said to be the owners of the properties situated in Sy.Nos.155/4B and 155/4C in Block No.20 of Keerikad Village, Alappuzha District, apart from owning properties in Sy.Nos.155/5C, 155/5B, 155/5 and 155/4 in the same village.

3. Earlier when the second respondent refused permission to utilise their land for other purposes in terms of the Kerala Land Utilisation Order (KLU Order), the first

petitioner, aggrieved, filed W.P.(C)No. 31361/2014 and obtained Exhibit P1 judgment, through which this Court directed the second respondent to consider the petitioner's land as dry and issue necessary permission to construct the building in terms of Clause 6 of the KLU Order. That was concerning the properties in Sy.Nos.155/5C, 155/5B, 155/5 and 155/4.

4. When the petitioners applied for permission for the properties situated in Sy.Nos.155/4B and 155/4C, which is said to be adjacent to the property covered by Exhibit P1 judgment, the petitioners are said to have been asked by the authorities to obtain one more direction from the court. Accordingly, the petitioners have filed the present writ petition.

5. Without much cogitation, it can be stated, passingly though, the attitude of the authorities, at times, defies logic. Once a person, placed under identical circumstances, has had the advantage of a judicial directive,

the authorities could as well exercise their discretion to examine whether the subsequent claim of the self same person is covered by the judicial directive, and if covered, it is only in the interest of justice that the authorities take a decision to extend the same benefit. It is entirely undesirable for the authorities to insist on the persons to obtain judicial directives on every occasion, as if it were a judicial rigmarole.

6. Be that as it may, since Exhibit P1 judgment squarely covers the issue, this Court, as has done earlier, reiterates its direction once more, this time applying it to the petitioners' properties in Sy.Nos.155/4B and 155/4C, in the following manner:

Thus treating the land as dry land for all practical purposes, necessary permission shall be granted to the petitioners to construct the building in terms of Clause 6 of the KLU Order within a period of two weeks from the date of receipt of a copy of this judgment.

With the above direction, the writ petition stands disposed of.

Dama Seshadri Naidu, Judge

tkv