

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 1988 of 2015 (W)

PETITIONER(S) :

**ASIFA BEEVI, AGED 32 YEARS,
W/O.ANSAR, K.C.HOUSE, IRAPPIL,
MANCODU, KADAKKAL, KOTTARAKKARA,
KOLLAM.**

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, CUTCHERY P.O., KOLLAM, PIN-691 013.**
- 3. THE TAHASILDAR,
TALUK OFFICE, PUNALUR, PUNALUR P.O,
KOLLAM, PIN-691 305.**
- 4. THE VILLAGE OFFICER,
EDAMULAKKAL VILLAGE, ANCHAL P.O., KOLLAM, PIN-691 306.**

BY SR.PUBLIC PROSECUTOR SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT P1 :** THE TRUE COPY OF THE SETTLEMENT DEED NO.3937/2004 OF CHADAYAMANGALAM SUB REGISTRY EXECUTED IN FAVOUR OF THE PETITIONER.
- EXT P2 :** THE TRUE COPY OF THE PROPERTY TAX RECEIPT REMITTED BY THE PETITIONER TO THE 3RD RESPONDENT FOR THE YEAR 2014-15.
- EXT P3 :** THE TRUE COPY OF THE POSSESSION CERTIFICATE NO.1814/2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT P4 :** THE TRUE COPY OF THE THANDAPER ACCOUNT OF THE PROPERTY MAINTAINED BY THE 3RD RESPONDENT.
- EXT P5 :** THE TRUE COPY OF THE LOCATION SKETCH OF THE PROPERTY ISSUED BY THE 3RD RESPONDENT.
- EXT P6 :** THE TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DATED 17-07-2014 OBTAINED BY THE PETITIONER FROM THE SUB REGISTRAR OFFICE, CHADAYAMANGALAM.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 1988 of 2015

Dated this the 19th day of February, 2015

J U D G M E N T

The prayers raised by the petitioner are in the following terms:

- "i) To call for the records leading to the proceedings of the Respondents to vacate the Petitioner from the Tarisu Land included in the property covered in Ext.P1 to P6 and issue a writ of certiorari or other appropriate writ order or direction quashing the proceedings against the Petitioner in respect of 1 Hector and 39.80 Ares of Property comprised in Old Survey No:21/4 21/6-12-35-37, Re-Survey No:246/3 in Block No: 27 of Edamulakkal Village and Building covered in Ext.P1 to P6.*
- ii) To issue a writ of mandamus or other appropriate writ, order or direction commanding the Respondents to desist from evicting the Petitioner from 1 Hector and 39.80 Ares of Property comprised in Old Survey No:21/4 21/6-12-35-37, Re-Survey No:246/3 in Block No:27 of Edamulakkal Village and Building covered in Ext.P1 to P6.*
- iii) To declare that 1 Hector and 39.80 Ares of Property comprised in Old Survey No:21/4 21/6-12-35-37, Re-Survey No:246/3 in Block No:27 of Edamulakkal Village and Building of the Petitioner covered in Ext.P1 to P6 is not included in any Tarisu land of the Government.*

- iv) *To issue a writ of mandamus or other appropriate writ, order or direction commanding the Respondents to issue a copy of the order or proceedings against the Petitioner in respect of the Tarisu Land within a stipulated time as directed by this Hon'ble Court and till then the proceedings to evict the Petitioner from 1 Hectar and 39.80 Ares of Property comprised in Old Survey No:21/4 21/6-12-35-37, Re-Survey No:246/3 in Block No:27 of Edamulakkal Village and Building covered in Ext.P1 to P6 may be kept in abeyance.*
- v) *Issue such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case."*

2. Considering the submissions made from the part of the petitioner that, the petitioner was sought to be evicted without any regard to the rights and liberties of the petitioner over the property with reference to Exts.P1 to P6, an interim order of 'status quo' was passed on 20.01.2015, which was extended subsequently on 04.02.2015.

3. The learned Government Pleader appearing for the respondents submits that, steps are being pursued to cause the property to be measured out, to ascertain whether any encroachment has been made by the petitioner. It is stated that, the property of the petitioner is situated in Sy.No.246/3 in Block N:27 of Edamulakkal village whereas, the nearby property

belonging to the Government is in Sy.No.246/2.

4. After hearing both the sides, this Court finds that measurement of the property is essential to solve the dispute once and for all. In the said circumstances, the respondents are set at liberty to cause measurement of the property with notice to the petitioner and other interested parties, if any. It shall be done, in accordance with law, at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment.

5. Interim order of 'status quo' passed by this Court will continue till such time. Based on the measurement to be effected and on the finalization of the proceedings in this regard, it will be open for the concerned respondent to proceed with further steps, if at all any encroachment is established, so as to be pursued and finalized in terms of the relevant provisions of the Kerala Land Conservancy Act.

The writ petition stands disposed of.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.