

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. 2080 of 2015 (H)

PETITIONERS:

1. JOHNSON @ JOY, AGED 49, S/O POULOSE,
PANAVILAKIZHGAKKATHIL, ARINALLOOR P.O.,
MUTTOM , KOLLAM DISTRICT-690 538.
2. NIRMALA, AGED 38, W/O., JOHNSON,
PANAVILAKIZHGAKKATHIL, ARINALLOOR P.O.,
MUTTOM , KOLLAM DISTRICT-690 538.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

1. THEVALAKKARA GRAMA PANCHAYAT,
THEVALAKKARA PANCHAYATH OFFICE,
THEVALAKKARA, KOLLAM DISTRICT-690 524
REPRESENTED BY ITS SECRETARY.
2. THE SECRETARY,
THEVAKKARA GRAMA PANCHAYTH
THEVALAKKARA PANCHAYATH OFFICE,
THEVALAKKARA, KOLLAM DISTRICT-690 524.
3. ROY, S/O., GLORY, KARYATHARA THEKKATHIL,
ARINALLOOR P.O., MUTTOM, KOLLAM DISTRICT-690 538
REPRESENTED BY ITS POWER OF ATTORNEY HOLDER
CHERUPUSHPAM Y.@ SUMA, W/O ROY,
KARYATHARA THEKKATHIL, ARINALLOOR P.O.,
MUTTOM, KOLLAM DISTRICT-690 538.
4. CHERUPUSHPAM Y @ SUMA, W/O ROY,
KARYATHARA THEKKATHIL, ARINALLOOR PO,
MUTTOM, KOLLAM DISTRICT-690 538.
5. THE DIRECTOR OF PANCHAYATHS,
PUBLIC OFFICE BUILDING, MUSEUM P.O.,
THIRUVANANTHAPURAM-695 033.

R1 & R2 BY ADV. SRI.S.SUDHEESHKAR

R3 & R4 BY ADVS. SRI.B.KRISHNA MANI

SRI.D.KESAVAN NAIR

SRI.RAHUL VENUGOPAL

SMT.N.V.SANDHYA

R5 BY GOVERNMENT PLEADER SRI.JUSTIN JACOB

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. 2080 of 2015 (H)

PETITIONER'S EXHIBITS:

EXHIBIT P1: COPY OF LAND TAX RECEIPT DATED 28.1.2014

EXHIBIT P1(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P1

EXHIBIT P2: COPY OF THE PHOTOGRAPH OF THE PUBLIC WAY.

EXHIBIT P2(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P2

EXHIBIT P3: COPY OF RECEIPT DATED 2.7.2014 ISSUED FROM THE OFFICE OF THE FIRST RESPONDENT PANCHAYATH AFTER RECEIVING REPRESENTATION DATED 2.7.2014

EXHIBIT P4: COPY OF PLAINT IN O.S. NO.296/2014

EXHIBIT P4(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P4.

EXHIBIT P5: COPY OF THE ORDER DATED 25.7.2014 PASSED BY THE MUNSIF COURT, KARUNAGAPPALLY IN IA NO.1293/2014 IN O.S. NO.296/2014

EXHIBIT P5(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P5

EXHIBIT P6: COPY OF COMMISSION REPORT ALONG WITH SKETCH

EXHIBIT P6(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P6

EXHIBIT P7: COPY OF REPRESENTATION DATED 22.12.2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT

EXHIBIT P7(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P7

EXHIBIT P8: COPY OF APPLICATION DATED 22.12.2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT UNDER RIGHT TO INFORMATION ACT

EXHIBIT P8(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P8

EXHIBIT P9: COPY OF RECEIPTS BEARING INWARD NO.8323 AND 8324 ISSUED FROM THE FIRST RESPONDENT AFTER RECEIVING EXHIBITS P7 AND P8

EXHIBIT P10: COPY OF REPRESENTATION DATED 27.12.2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 5TH RESPONDENT

EXHIBIT P10(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P10

EXHIBIT P11: COPY OF REPRESENTATION DATED 31.12.2014 SUBMITTED BY THE FIRST PETITIONER BEFORE THE 2ND RESPONDENT

EXHIBIT P11(a): TRUE ENGLISH TRANSLATION OF EXHIBIT P11.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.2080 of 2015 H

Dated this the 28th day of January, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader for the fifth respondent as well as the learned counsel for respondents 3 and 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 have a grievance that respondents 3 and 4 have been constructing a residential building under the cover of a building permit issued by the second respondent, trespassing upon the public pathway. In that regard, the first petitioner is said to have submitted Exhibit P11 representation before the second respondent. Among other things, questioning the

inaction of the second respondent in considering Exhibit P11 expeditiously, the petitioners have filed the present writ petition.

3. There is any amount of controversy whether respondents 3 and 4 are constructing the building strictly in compliance with the building permit granted by the second respondent or there are any violations, including that of the alleged trespass on the public pathway. At any rate, the second respondent ought to have disposed of Exhibit P11 representation submitted by the first petitioner expeditiously.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioners and respondents 3 and 4, this Court, without expressing any opinion on the merits of the matter, disposes of the writ petition with a direction to the second respondent to consider Exhibit P11 representation of the first petitioner in accordance with law, after affording an

opportunity of being heard not only to the first petitioner but also to respondents 3 and 4, and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of three weeks from the date of receipt of a copy of this judgment. Any construction that is being made by respondents 3 and 4 shall be subject to the outcome of the decision to be taken by the second respondent.

Dama Seshadri Naidu, Judge

tkv