

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 2343 of 2015 (P)

PETITIONER :

**SANTY BOSE, AGED 50 YEARS,
W/O.MOHAN BOSE, VAZHAKULATH HOUSE,
PARIYARAM PUDUPPALLY, KOTTAYAM.**

BY ADV. SRI.M.J.THOMAS

RESPONDENTS :

- 1. SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. KUMARAKOM GRAMA PANCHAYAT,
KUMARAKOM REPRESENTED BY ITS SECRETARY - 686 503.**
- 3. SECRETARY,
KUMARAKOM GRAMA PANCHAYAT, KUMARAKOM - 686 568.**

R1 BY GOVERNMENT PLEADER SMT. C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 1ST
RESPONDENT UNDER SECTION 191 OF THE KERALA PANCHAYAT RAJ ACT
SEEKING FOR A RELIEF BY WAY OF DIRECTION TO RESPONDENTS 2 AND 3
TO RESPONDENTS 2 AND 3 TO RESTORE THE BUND AS IT EXISTED DT.5/11/14
- P2: TRUE COPY OF THE AFFIDAVIT AND PETITION FILED BY THE PETITIONER
ON 8/11/2014.
- P3: TRUE COPY OF THE NOTICE DATED 17/12/2014 ALONG WITH ITS ENGLISH
TRANSLATION.

RESPONDENT(S)' EXHIBITS :

//TRUE COPY//

P.A. TO JUDGE

bp

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 2343 of 2015 (P)

Dated this the 9th day of February, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader, 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 petitioner, who is said to be the owner in possession of 96 cents of land comprised in Block No. 10, Re-Survey No. 338 of Kumarakom village, has a grievance that the bund abutting the land, existing for more than 50 years, was illegally trespassed upon and removed by the respondent Grama Panchayath. Having failed in her efforts to get it restored, the petitioner has approached this Court.

3. The learned counsel for the petitioner has strenuously contended that the bund is adjacent to the trench, which terminates about 80 feet south of the petitioner's property. According to him, the area of the trench is PWD puramboke

and thus is government land; the respondent Grama Panchayath has nothing to do with it.

4. The learned counsel has further submitted that without putting the petitioner on notice and without following any due process, on 08.10.2014, the respondent Grama Panchayath illegally and in a highhanded manner removed the bund by using a JCB, thereby casing immense hardship to the petitioner, inasmuch her land faces the problem of inundation. Under those circumstances, the petitioner is said to have submitted Ext.P1 representation to the first respondent. He has drawn my attention to Ext.P2, which is an application seeking an interim direction to allow the petitioner to reconstruct the demolished bund before the issue could be finally adjudicated upon based on Ext.P1 petition. In the light of what is said to be the inordinate delay on the part of the first respondent in disposing of Ext.P1 representation, the petitioner has approached this Court.

5. The learned Government Pleader, on her part, has

submitted that the first respondent is willing to consider Ext.P1 on merits, after affording an opportunity to the respondent Grama Panchayath as well.

In the facts and circumstances, this Court disposes of the writ petition with a direction to the first respondent to consider Ext.P1 petition of the petitioner, after affording an opportunity of personal hearing, not only to the petitioner but also to the respondent Grama Panchayath, and pass appropriate orders thereon, as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment.

sd/- DAMA SESHADRI NAIDU, JUDGE.

