

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No.2732 of 2015 (N)

PETITIONER:

**PRATHAP FOUNDATION FOR EDUCATION AND TRAINING,
SCMS CAMPUS,PRATHAP NAGAR,MUTTOM,ALUVA,KOCHI,
REPRESENTED BY ITS EXECUTIVE TRUSTEE PRAMOD P.THEVANNOOR.**

**BY SMT.SUMATHY DANDAPANI (SENIOR ADVOCATE.)
ADVS.SRI.MILLU DANDAPANI
SMT.ANNA THOMAS**

RESPONDENTS:

- 1. STATE OF KERALA,REPRESENTED BY SECRETARY TO LOCAL
SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,ERNAKULAM,
CIVIL STATION,KAKKANAD-682 030.**
- 3. THE SPECIAL GRADE SECRETARY,
CHOORNIKKARA GRAMA PANCHAYATH,
THAYIKKATTUKARA POST,ALUVA-683 106.**

R1 TO R3 BY SPECIAL GOVT. PLEADER SRI.P.K.SOUZ (REVENUE)

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 :TRUE COPY OF THE REPORT DTD.26.4.2008 ISSUED BY THE VILLAGE OFFICER,ALUVA WEST.

EXT.P2:TRUE COPY OF THE REPORT DTD.15.7.2010 ISSUED BY THE VILLAGE OFFICER, ALUVA WEST.

EXT.P3:TRUE COPY OF THE RESOLUTION NO.II, DTD.19.7.2010 RESOLVED BY THE 3RD RESPONDENT PANCHAYAT.

EXT.P4:TRUE COPY OF THE LETTER NO.CHR NO.20/2010-II DTD.30.8.2010 ISSUED BY THE AGRICULTURAL OFFICER.

EXT.P5:TRUE COPY OF THE LETTER NO.L5-36538/10 DTD.17.9.2010 ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.

EXT.P6:TRUE COPY OF THE JUDGMENT DTD.7.4.2011 IN WPC NO.19982/2010 OF THIS HON'BLE COURT.

EXT.P7:TRUE COPY OF THE ORDER GO(RT)NO.2360/2011/LSGD, DTD.15.10.2011 ISSUED BY THE 1ST RESPONDENT.

EXT.P8:TRUE COPY OF THE JUDGMENT DTD.5.7.2013 IN WPC NO.3188/2013 OF THIS HON'BLE COURT.

EXT.P9:TRUE COPY OF THE APPLICATION DTD.17.7.2013 SUBMITTED BY THE PETITIONER TO THE SUB COLLECTOR,FORT KOCHI.

EXT.P10:TRUE COPY OF THE LETTER NO.C8-3072/08 DTD.14.8.2012 ISSUED BY THE ADDL.TAHSILDAR,ALUVA.

EXT.P11:TRUE COPY OF THE LETTER NO.C-6365/12 DTD.7.10.2013 ISSUED BY THE REVENUE DIVISIONAL OFFICER TO THE 2ND RESPONDENT.

EXT.P12:TRUE COPY OF THE LETTER NO.PFET/183/13 DTD.8.10.2013 SUBMITTED TO THE 2ND RESPONDENT.

EXT.P13:TRUE COPY OF THE PROCEEDINGS NO.L10-36538/10, DTD.26.12.2013 OF THE 2ND RESPONDENT.

EXT.P14:TRUE COPY OF THE LETTER NO.SCMS/183/14/0567, DTD.12.3.2014 ALONG WITH THE DULY SIGNED UNDERTAKING DTD.20.2.2014 BEFORE A NOTARY PUBLIC.

EXT.P15:TRUE COPY OF THE LETTER NO.PFET/183/14/1669 DTD.4.8.2014 ISSUED TO THE 2ND RESPONDENT.

EXT.P16:TRUE COPY OF THE LETTER NO.PFET/183/14/1757 DTD.14.8.2014 ISSUED TO THE 2ND RESPONDENT.

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**EXT.P17:TRUE COPY OF THE LETTER NO.PEFT/183/14/2067, DTD.29.9.2014
ISSUED TO THE 2ND RESPONDENT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.2732 OF 2015
.....

Dated this the 11th February, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

"i) *issue a writ of certiorari quashing Exhibit P13 to the extent correcting the survey Nos.7/10, 9/9 and 9/11 and include survey Nos.9/9, 9/11-2, 9/4, 9/3, 9/2, 8/7, 7/11, 8/4, 8/6, 9/1, 7/10, 7/8 and 8/5-3;*

ii) *issue a writ of mandamus directing the 2nd respondent to issue orders carrying out the correctness and include survey Nos.9/9, 9/11-2, 9/4, 9/3, 9/2, 8/7, 7/11, 8/4, 8/6, 9/1, 7/10, 7/8 and 8/5-3 forthwith;*

iii) *issue a writ of mandamus directing the 3rd respondent to issue building permits once the 2nd respondent has issued order to permit the petitioner to construct buildings in their property;*

iv) *issue such other appropriate writ, order or direction as this Honourable Court may deem fit and proper in the facts and circumstances of the case; and*

v) *award costs.*

2. The learned Counsel for the petitioner points out that the property concerned herein, where the hostel intended for the students is proposed to be constructed, is not a 'paddy land' or 'wet land' having effected reclamation much prior to the commencement of Act 28 of 2008 and the factual position stands certified by various authorities including the second respondent/District Collector, as evident from Ext.P13. However, when the petitioner proceeded with further steps for getting necessary building permit, some discrepancy with regard to survey number was pointed out from the part of the third respondent/Panchayat, which made the petitioner to approach the second respondent again by filing Exts.P15 and P16 respectively, so as to cause Ext.P13 to be corrected accordingly. The said proceedings are pending consideration for quite long. This made the petitioner to approach this Court by filing this writ petition, for immediate interference.

3. Heard the learned Government Pleader as well.

4. During the course of hearing, the learned Counsel for the petitioner submits that the petitioner will be satisfied if a direction is given to the second respondent/District Collector to

consider and finalise Exts.P15 and 16 within the shortest possible time. In view of the limited nature of relief sought for, this Court does not find it necessary to issue notice to the third respondent/Panchayat for the time being.

5. The writ petition is disposed of, directing the second respondent/District Collector to consider and finalise Exts.P15 and 16, in accordance with law, after affording an opportunity of hearing to the petitioner and the third respondent/Panchayat. The proceedings, as above, shall be finalised, at the earliest, at any rate within 'one' month from the date of receipt of a copy of the judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the second respondent for further steps.

P.R.RAMACHANDRA MENON
JUDGE

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