

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 3790 of 2015 (W)

PETITIONER :

**M.R.SUKUMARAN, AGED 64 YEARS,
S/O.RAGHAVAN, RESIDING AT MADATHIL HOUSE, PERUMPADANNA
NORTH PARAVUR, ERNAKULAM DISTRICT - 683 513.**

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS :

- 1. STATE OF KERALA
DEPARTMENT OF LOCAL SELF GOVERNMENT INSTITUTIONS,
REPRESENTED BY ITS SECRETARY
GOVERNMENT SECRETARIAT ANNEX, TRIVANDRUM - 695001.**
- 2. PARAVUR MUNICIPALITY
NORTH PARAVUR, ERNAKULAM DISTRICT, PIN CODE - 683 513
REPRESENTED BY ITS SECRETARY.**
- 3. THE SUPERINTENDENT OF SURVEYS
SURVEYS OFFICE, KAKKANAD, ERNAKULAM
COCHIN - 682 030.**
- 4. TALUK SURVEYOR
TALUK OFFICE, NORTH PARAVUR
ERNAKULAM DISTRICT - 683 513.**
- 5. GEORGE MATHEW
S/O. PAPPU, RESIDING AT MECHERY HOUSE, PERUMPADDANNA
NORTH PARAVUR, ERNAKULAM DISTRICT -683513.**

**R1,R3, & R4 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR
R2 BY ADV. SRI.C.S.AJITH PRAKASH
R5 BY ADV. SRI.P.VISWANATHAN
R5 BY ADV. SRI.SUNIL N.SHENOI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

WP(C).No. 3790 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE ORDER NO.TP 5936/10 DT. 30.1.12 ISSUED BY THE SECRETARY PARAVUR MUNICIPALITY TO GOERGE MECHERY, MECHERY HOUSE, PERUMBADANNA.**
- P2: TRUE COPY OF THE LETTER DR. 24.1.12 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY PARAVUR MUNICIPALITY.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No. 3790 of 2015

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Dated this the 23rd day of June, 2015

JUDGMENT

Alleging that though the respondent municipality has ordered to measure the road which is vested with the municipality, no steps have been taken by the municipality and the Taluk Surveyor to measure the property and to identify the alleged illegal construction effected by the 5th respondent trespassing into the road, the petitioner has come up before this Court.

2. The petitioner is aggrieved by the illegal attempt on the part of the 5th respondent to construct a compound wall after trespassing into the public pathway on the basis of a permit, for constructing a compound wall obtained from the Paravur municipality. When the illegal attempt was revealed, the petitioner lodged a complaint before the respondent municipality. Pursuant to the complaint, the municipality issued Ext.P1 order and thereby kept the permit issued

in favour of the 5th respondent in abeyance and steps have been taken to measure the property through the Taluk Surveyor in the presence of Municipal Engineer. However, the respondents have not taken any action. It is with this background, the petitioner has come up before this Court.

3. Heard the learned counsel for the petitioner, the learned Government Pleader, the learned standing counsel for the respondent municipality and learned counsel for the 5th respondent in the matter.

4. The learned standing counsel for the respondent municipality inviting my attention to paragraph (5) of the counter affidavit filed by them submitted that the 5th respondent on 28.6.2012 has informed the municipality that he should submit the plan after measuring the property with the Taluk surveyor in the presence of a commissioner to be deputed by the Munsiff's Court on moving an commission application by him. However, till date he has not submitted any such report from the Taluk Surveyor as stated.

5. The pendency of the civil suit will not stand in the way of the revenue authorities in measuring the property to ascertain whether there is illegal encroachment upon the road.

Therefore, the writ petition is disposed of directing the respondents 3 and 4 to effect a proper measurement on the basis of the available records and title deeds of the contesting parties and to make available a plan to the respondent municipality within a period of two months from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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