

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 6606 of 2013 (A)  
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PETITIONER:  
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FR.SAJU JOSEPH, AGED 44 YEARS,  
S/O. JOSEPH, KOCHUPUTHENPURAYIL HOUSE, PARATHODE,  
IDUKKI.P.O., NOW AT ST. JULIE BILLIART PARISH,  
SAN JOSE, CALIFORNIA,  
USA REP. BY POWER OF ATTORNEY HOLDER BENNY JOSEPH,  
AGED 48 YEARS, S/O. JOSEPH, KOCHUPUTHANPURAYIL HOUSE,  
PARATHODE, IDUKKI.P.O.

BY ADV. SRI.L.RAJESH NARAYAN IYER

RESPONDENTS:  
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1. THE SECRETARY,  
KONNATHADY GRAMA PANCHAYATH-685 563.
2. KONNATHADY GRAMA PANCHAYATH  
PIN-685563 REP. BY SECRETARY.
3. BABY  
S/O. UTHUPPACHAN, PARAMBATHU HOUSE, PARATHODE KARA  
KONNATHADY VILLAGE-685 563.

R3 BY ADV. SRI.GEORGE SEBASTIAN, SC  
R1 BY ADV. SRI.C.DILIP  
R1 BY ADV. SRI.R.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

WP(C).No. 6606 of 2013 (A)

: 2 :

## **APPENDIX**

### **PETITIONER'S EXHIBITS :**

EXT.P1: TRUE COPY OF THE BUILDING PERMIT DATED 21-3-2011 BEARING NO. A3(P) 760/2010.

EXT.P2: TRUE COPY OF THE BASIC TAX RECEIPT DATED 17-4-2012 BEARING NO. 2657464.

EXT.P3: TRUE COPY OF THE POSSESSION CERTIFICATE NO. 1264/10 DATED 4-3-10.

EXT.P4: TRUE COPY OF THE BUILDING TAX RECEIPT DATED 3-1-12.

EXT.P5: TRUE COPY OF THE COMPLAINT DATED 24-3-12.

EXT.P6: TRUE COPY OF THE RECEIPT DATED 24-3-12.

EXT.P7: PHOTOGRAPHS OF THE CONSTRUCTION.

### **RESPONDENTS' EXHIBITS**

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

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W.P. (C) No. 6606 of 2013 (A)  
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Dated this the 20<sup>th</sup> day of January, 2015.

**JUDGMENT**

Heard the learned counsel for the petitioner, the learned Standing Counsel for respondents 1 and 2 and the learned counsel for the third respondent, apart from perusing the record.

2. Briefly stated, the petitioner, a neighbour of the third respondent, has a grievance that the third respondent has been effecting constructions without proper building permit from the second respondent Grama Panchayath. In this regard, he is said to have submitted Ext.P5 representation dated 24.03.2012. Ventilating his grievance that no action has been taken on his Ext.P5 representation, the petitioner has filed the present writ petition, patently after one year from the date of Ext.P5.

3. The learned Standing Counsel for the respondent Grama Panchayath submits that the Grama Panchayath will consider the petitioner's Ext.P5 representation and pass appropriate orders thereon at an early date.

4. The learned counsel for the third respondent has submitted

that though Ext.P5 was allegedly submitted on 24.03.2012, the petitioner filed the writ petition after more than one year. According to him, the construction stood completed by the time the writ petition was filed, which aspect has been seriously contested by the learned counsel for the petitioner, who, in turn, has submitted that by the time of filing of the writ petition, it was not completed as could be evident from Ext.P7 photographs.

5. The learned counsel for the third respondent has further submitted that the writ petition suffers from the vice of latches. He has contended that in category II Grama Panchayaths, certain constructions do not require building permission and that the construction undertaken by the third respondent was under the exempted category.

6. Be that as it may, given the allegation that the 3<sup>rd</sup> respondent has been effecting construction or has already effected construction without valid building permission, it is incumbent on the first respondent to enquire into the allegation and take appropriate remedial steps. It is not denied that the petitioner filed Ext.P5 way back on 24.03.2012. If there is any inordinate delay in considering it

by the Grama Panchayath, the petitioner cannot be blamed for that. Even otherwise, in the public interest, it is essential that the Grama Panchayath ensures that no unauthorised constructions are made within its jurisdiction.

In the facts and circumstances, having regard to the respective submissions of the learned Counsel for the petitioner, the learned Standing Counsel for the respondent Grama Panchayath and the learned counsel for the 3<sup>rd</sup> respondent, this Court, without expressing any opinion on the merits of the matter, disposes of the writ petition with a direction to the first respondent to consider the petitioner's Ext.P5 representation in accordance with law, after affording an opportunity of hearing to the petitioner, and pass appropriate orders thereon, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

sd/- DAMA SESHADRI NAIDU, JUDGE.

