

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 5336 of 2015 (N)

PETITIONER :

**K.LAKSHMANAN,S/O.KUTTAPPAN ACHARI, AGED 74 YEARS,
AGED 74 YEARS, RATNA VILAS, AMMANKOVIL STREET,
MULLAKKAL, ALAPPUZHA-688011.**

BY ADV. SRI.V.B.HARI NARAYANAN

RESPONDENTS :

- 1. STATE OF KERALA,
REP.BY ITS SECRETARY TO GOVERNMENT
LAND REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.**
- 2. THE ADDITIONAL TAHASILDAR,TALUK OFFICE,
AMBALAPPUZHA, ALAPUZHA DISTRICT-688561.**

R1 & R2 BY GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 5336 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: A COPY OF THE LETTER DATED 11/2/2015 ISSUED BY THE 2ND
RESPONDENT.**

**EXT.P2: A COPY OF THE REPLY DATED 13/2/2015 SUBMITTED BY THE
PETITIONER BEFORE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.5336 of 2015

Dated this the 20th day of February, 2015

JUDGMENT

Petitioner is stated as the owner of 38.562 cents of land in Survey No.813/8A/1 of Mullackal Village, having obtained the same by virtue of title deed bearing No.1941/91. It is stated that, the said property is being enjoyed by the petitioner with absolute ownership, exclusive possession and clear marketable title right from the date of conveyance as above and that the property is well-guarded by compound wall on all the four sides. It is stated that, the petitioner has effected construction of an Auditorium, which is now being used as a 'Kalyanamandapam' from 1993 onwards. While so, at the instance of somebody behind the curtain, the 2nd respondent has issued Ext.P1 notice to the petitioner in C-Form under Rule 11 of the Kerala Land Conservancy Rules, alleging that there was encroachment at the hands of the petitioner and seeking to effect vacant surrender within ten days, lest, coercive proceedings should be taken at the cost and risk of the petitioner. The petitioner immediately rushed

to the 2nd respondent with reply, but without considering the same, further steps are being proceeded against, which made the petitioner to approach this Court by filing this writ petition.

2. The learned counsel for the petitioner points out that, Ext.P1 is per se wrong and illegal in all respects, apart from the fact that it is obscure in all respects. The learned counsel also points out that, no notice whatsoever was issued to the petitioner at any point of time as envisaged under Section 12 of the Kerala Land Conservancy Act.

3. Heard the learned Government Pleader as well.

4. After going through the pleadings and proceedings, this Court finds that, if no notice was issued to the petitioner as contemplated under Section 12, prior to issuance of Ext.P1, further proceedings pursuant to Ext.P1 are not liable to be pursued before giving an opportunity of hearing to the petitioner by issuing the statutory notice.

5. In the said circumstances, there will be a direction to the 2nd respondent to verify the position and if no notice was issued under Section 12, a proper notice, giving facts and figures, shall be issued to the petitioner within 'two weeks' from the date of

receipt of a copy of this judgment. It will be open for the petitioner to submit reply on receipt of the said notice, which shall be done within 'one week' from the date of receipt of the notice as above. The proceedings shall be finalised accordingly, after conducting measurement of the property with notice to the petitioner and other interested parties, if any, and after giving an opportunity of hearing, at the earliest, at any rate, within 'one month' thereafter.

'Status quo' will continue till such time.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 2nd respondent, for further steps.

The writ petition is disposed of.

Sd/-

**P.R. RAMACHANDRA MENON,
JUDGE**

sp