

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 5844 of 2015 (F)

PETITIONER:

**ROSAMMA MATHEW,
AGED 56 YEARS, W/O JOB MATHEW,
PANTHRANDIL PUTHENPURA, AMICHAKARY,
CHAMPAKULAM P.O., ALAPPUZHA DISTRICT-688505.**

**BY ADVS.SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN
SMT.T.J.SEEMA**

RESPONDENT(S):

- 1. THE ASSISTANT EXECUTIVE ENGINEER,
BUILDING & ROADS DIVISION,
KUTTANAD, ALAPPUZHA-688004.**
- 2. THE CHAMPAKULAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
CHAMPAKULAM P.O., ALAPPUZHA DISTRICT-688007.**
- 3. THE VILLAGE OFFICER,
CHAMPAKULAM-688505.**
- 4. THE EXECUTIVE ENGINEER,
ROADS & BRIDGES SECTION, P.W.D.,
ALAPPUZHA-688004.**
- 5. FR. PAUL MANGAD C.M.I., PRINCIPAL,
FR. THOMAS PORUKARA CENTRAL SCHOOL,
CHAMPAKULAM P.O., ALAPPUZHA-688007.**

**R1 TO R4 BY GOVERNMENT PLEADER SRI.K.C.VINCENT
R5 BY ADVS. SRI.JOMY GEORGE
SRI.SEBASTIAN THOMAS
SMT.K.J.ANITHA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 5844 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1: TRUE COPY OF THE TITLE DEED OF THE PETITIONER
DATED 24.6.1983.**

**EXHIBIT P2: TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER
BEFORE THE CHIEF MINISTER OF KERALA DATED 12.10.2014.**

**EXHIBIT P3: TRUE COPY OF THE COMMUNICATION FROM OFFICE OF THE CHIEF
MINISTER TO THE CHIEF ENGINEER, ROAD AND BRIDGES
DATED 6.11.2014.**

**EXHIBIT P4: TRUE COPY OF THE JUDGMENT IN WPC NO.34624/2014
DATED 19.12.2014 OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.R.RAMACHANDRA MENON, J.

W.P.(C).No.5844 of 2015

Dated this the 18th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- i. issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents 1 to 4 to commence and complete the construction of protection wall separating the property of the petitioner and the PWD road as mentioned in Ext.P3.*

2. The learned counsel for the petitioner points out that the construction of the retaining wall is being delayed for no reason at all and the attempt of the concerned respondent is only to see that funds get lapsed by expiry of the financial year. It is also pointed out that the authorities of the PWD are simply dancing with the tune of the fifth respondent, who is having some vested interest to see that the wall is not constructed at the spot, so as to have encroachment into the property belonging to the petitioner. The version of the petitioner is sought to be denied by the learned counsel for the fifth respondent.

W.P.(C).No.5844 of 2015

3. Heard the learned Government Pleader as well, who points out that all necessary infrastructure have been provided and steps were being taken to effect the construction, but there was some protest from the part of the fifth respondent apprehending that the construction may adversely affect the nearby bus stop. It was in the said circumstances, that the construction was put in abeyance.

4. The learned counsel for the petitioner points out that the fifth respondent had approached this Court by filing W.P.(C) No.34624 of 2014 which was disposed of by Ext.P4 judgment, whereby the construction has been permitted to be carried out, however, making it clear that steps shall be taken to ensure that bus stop is not affected by the construction of the compound wall and that no part of the Government land or PWD road is encroached by the fifth respondent therein, who is stated as the husband of the petitioner herein (though there is some difference with regard to the name as given in the cause title of Ext.P4 and as given in the cause title of the present writ petition, supported by the affidavit dated 23.2.2015). The learned counsel for the

W.P.(C).No.5844 of 2015

petitioner also points out that so far as the rights and interests of the fifth respondent, the beneficiary of the bus stop, are taken care of in Ext.P4, there cannot be any further delay in constructing the retaining wall.

After hearing both sides respondents 1 and 4 are directed to complete the construction forthwith ensuring that the funds are not lapsed by the expiry of the financial year and strictly in conformity with the direction issued by this Court as per Ext.P4 judgment in W.P.(C) No.34624 of 2014.

The writ petition stands disposed of

sd/-

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

rkc.