

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 6962 of 2015 (U)

PETITIONER:

SUBAIR, AGED 44 YEARS,
S/O.MOIDEEN, KOTTAPARAMBIL HOUSE, PARAPPURAM.

BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA
SRI.K.D.SREEVISAKH

RESPONDENTS:

1. CHELAKKARA GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, CHELAKKARA.P.O
THRISSUR-680 586.
2. SECRETARY,
CHELAKKARA GRAMA PANCHAYAT, CHELAKKARA.P.O.,
THRISSUR-680 586.
3. SUBRAMANIAN,
S/O PALAN, KUTTIKKAD COLONY, THONNURKKARA, CHELAKKARA
THRISSUR-680 586.

R3 BY ADV. SRI.SHOBY K.FRANCIS
R1-R2 BY ADV. SRI.BINOY VASUDEVAN, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 6962 of 2015 (U)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 TRUE COPY OF NOTICE NO.A-8903/14 ISSUED BY 2ND RESPONDENT
DATED 14/11/2014 ALONG WITH ENGLISH TRANSLATION.

EXT.P2 TRUE COPY OF NOTICE NO.A-8903/14 ISSUED BY 2ND RESPONDENT
DATED 17/12/2014 ALONG WITH ENGLISH TRANSLATION.

EXT.P3 TRUE COPY OF THE LETTER NO.A2-897/14 ISSUED BY 2ND RESPONDENT
DATED 20/02/2015 AND ITS TRANSLATION.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 6962 of 2015 (U)

Dated this the 24th day of March, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned counsel for the respondent Grama Panchayath and also the learned counsel for the 3rd respondent, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. The grievance of the petitioner is that the 3rd respondent has encroached upon the public road. Based on the complaint made by the petitioner, initially, the 2nd respondent issued Ext.P1 notice; later, based on the reply submitted by the 3rd respondent, the said authority issued Ext.P2 orders. Questioning the inaction on the part of the respondent Grama Panchayath in enforcing Ext.P2 orders, the petitioner has filed the present writ petition.

3. The learned counsel for the respondent Grama Panchayath has submitted that against Ext.P2 order passed by the 2nd respondent, the 3rd respondent has already preferred an appeal before the Committee of the Grama Panchayath. According to him, though it is styled as a representation, in statutory terms, it is required to be treated as an appeal. Eventually, he has contended that the committee of the Grama Panchayath has actively been seized of the issue and it is all set to pass appropriate orders on the appeal preferred by the 3rd respondent.

4. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner, the learned counsel for the respondent Grama Panchayath and also the learned counsel for the 3rd respondent, this Court is of the view that once an appellate authority has been seized of the issue, it may not be proper for this Court to adjudicate on the same.

5. It is made clear that the petitioner as well as the 3rd

respondent can put forward all the claims before the appellate committee, which is eventually to take an appropriate decision in the appeal pending before it.

6. Needless to observe that the committee of the respondent Grama Panchayath may expedite the process and complete the proceedings at the earliest, preferably not beyond 30 days.

With the above observation, this writ petition stands disposed of. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

