

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 11492 of 2010 (J)

PETITIONER(S) :

1. VASUDEVAN, S/O.KUTTAPPAN, THAZHATHUVEEDU,
PO ATHIPOTTA, VIA PAZHAM PALAKKODU, PALAKKAD
DISTRICT.

2. THANKAPPAN, S/O.VELAYUDHAN, PERUMBARODU
VEEDU, ATHIPOTTA PO, PALAKKAD DISTRICT.

3. VELAN, S/O.CHAMI, KAMMANTHARA,
ATHIPOTTA PO, PALAKKAD DISTRICT.

4. KUNHALANKUTTY, S/O.KUTTIYATHAN,
VADAKKUMURI, ATHIPOTTA PO, PALAKKAD DISTRICT.

BY ADVS.SRI.P.VIJAYA BHANU
SMT.M.M.DEEPA

RESPONDENT(S) :

1. STATE OF KERALA REPRESENTED BY SECRETARY
TO DEPARTMENT OF LOCAL SELF GOVERNMENT
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, PALAKKAD.

3. THE TAHSILDAR, TALUK OFFICE, ALATHUR,
PALAKKAD DISTRICT.

4. TARUR GRAMA PANCHAYAT REPRESENTED BY
ITS SECRETARY.

GOVT.PLEADER SRI. A. MOHAMMED SAVAD FOR R1 TO R3

BY ADV. SMT.JEENA JOSEPH &
ADV. SRI.G.D.PANICKER FOR R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 16-01-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.P.C. NO. 11492/2010

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE RESOLUTION DATED
29-01-2001 PASSED BY THE ERSTWHILE COMMITTEE
OF TARUR GRAMA PANCHAYATH

EXT.P2: TRUE COPY OF THE LETTER ISSUED BY
THE 3RD RESPONDENT DATED 30-06-2004
ADDRESSED TO THE 4TH RESPONDENT

EXT.P3: TRUE COPY OF THE RESOLUTION DATED
21-10-2005 OF THE 4TH RESPONDENT

EXT.P4: TRUE COPY OF THE JUDGMENT DATED 2-
12-2005 OF THIS HON'BLE COURT IN W.P.C. NO.
31890/2005

EXT.P5: TRUE COPY OF THE NOTICE DATED 16-
01-2006 ISSUED BY THE 4TH RESPONDENT TO THE
PETITIONER.

/TRUECOPY/

P.S. TOJUDGE

A.M.SHAFIQUE, J.

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W.P. (C) No. 11492 of 2010 – J
.....

Dated this the 16th day of January, 2015

JUDGMENT

Petitioners have approached this Court complaining the inaction on the part of the Panchayath in not recommending allotment of certain extent of land which was permitted in terms of Ext. P1 resolution. Facts involved in the Writ Petition would disclose that by virtue of Ext. P1 resolution Panchayath took a decision to allot 4 cents of land to the petitioners on the ground that they do not have any other landed properties. The matter was recommended by the Tahsildar as well, as evident from Ext. P2. But, thereafter, on the basis of certain complaints, the Panchayath re-considered the matter and decided not to effect allotment as evident from the resolution dated 21-10-2005

(Ext.P3).

2. A writ Petition came to be filed as W.P. (C) No. 31890 of 2005. By judgment dated 21-12-2005, a direction has been issued to the Panchayath to re-consider the matter in terms of Rule 11 of the Kerala Panchayath Raj (Procedure for Panchayath Meeting) Rules, 1995. According to the petitioner, no action has been taken by the Panchayath in terms of Ext. P4 judgment and, therefore, they sought to quash Ext. P3 resolution and for a direction to the 3rd respondent to issue pattayam to the petitioners based on Ext. P1 resolution.

3. A counter affidavit has been filed by the 4th respondent inter alia stating that on the basis of the judgment in the Writ Petition referred to above, Panchayath re-considered the matter and notice was issued to the petitioners. Two of the petitioners did not appear and the other two had submitted certain documents. On enquiry, it was understood that they were

having sufficient income and properties and they were well placed in the society and it was decided not to recommend allotment of the land. The resolution of the Panchayath was forwarded to the District Collector.

4. A counter affidavit has been filed by the 2nd respondent also inter alia stating that the Panchayath should be directed to produce the proceedings initiated and the decision taken in the meeting in terms of the judgment at Ext. P4.

5. From the aforesaid factual situation, it is clear that as matters stand now, the Panchayath has not issued any recommendation to allot the aforesaid 4 cents of land in favour of the petitioners on specific grounds.

6. Learned counsel for the petitioners would, however, submit that since the matter is pending before the District Collector, a direction should be issued to the District Collector to take appropriate decision after hearing the affected parties.

7. Admittedly, the District Collector is the authority to effect allotment of land based on the recommendation of the Panchayath. According to the petitioners, the decision of the Panchayath cannot be relied upon, as sufficient materials are available to indicate that the petitioners are eligible for allotment of land.

8. As far as Ext. P1 resolution is concerned, it is already cancelled by another resolution passed which is produced as Ext. R4 (a). Under such circumstances, Ext. P1 will not help the petitioners.

9. In the recommendation given to the District Collector as Ext. R4 (b), it is clearly indicated that the petitioners are not eligible for any land. This communication had been issued on 6-4-2006. This Writ Petition is filed after a long lapse of four years. Understandably, the District Collector has not taken any further action in the matter.

Under such circumstances, the petitioners are not entitled to seek any claim on the basis of Ext.P1. However, there will be a direction to the 2nd respondent to dispose of the application pending before him, if not already disposed of, within a period of three months, from the date of receipt of a copy of this judgment, after hearing the affected parties.

Dated this the 16th day of January, 2015.

Sd/- A.M.SHAFIQUE,
JUDGE

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/truecopy/

P.S.tojudge