

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8361 of 2015 (U)

PETITIONER(S):

**BEENA AGED 35 YEARS
W/O.ANILKUMAR, KUTTIKATTU MANNEL, PRAYAR SOUTH,
ALUMPEEDIKA P.O., PIN 690547, CLAPPANA VILLAGE,
KARUNAGAPPALLY.**

**BY ADVS.SRI.V.PHILIP MATHEW
SRI.GIBI.C.GEORGE**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE
KERALA GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.**
- 2. DISTRICT COLLECTOR,
KOLLAM, PIN 691013.**
- 3. THE TAHSILDAR,
TALUK OFFICE, KARUNAGAPPALLY, PIN 690518.**
- 4. THE VILLAGE OFFICER,
VILLAGE OFFICE, CLAPPANA VILLAGE-690525.**
- 5. TALUK SURVEYOR,
TALUK OFFICE, KARUNAGAPPALLY- 690518.**
- 6. RAJU
USHALAYAM, PRAYAR SOUTH, ALUMPEEDIKA P.O.
KARUNAGAPPALLY, PIN 690547.**
- 7. ANITHA
MOHANALAYAM, PRAYAR SOUTH, ALUMPEEDIKA P.O.
KARUNAGAPPALLY, PIN 690547.**

BY GOVERNMENT PLEADER SRI. JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 8361 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: COPY OF SALE DEED NO.4077/12.**
- EXHIBIT-P2: COPY OF SALE DEED NO.3008/08 OF OACHIRA SRO.**
- EXHIBIT-P3: COPY OF THE NOTICE DATED 29.12.14 UNDER SECTION 80 OF THE CPC.**
- EXHIBIT-P4: COPY OF THE REPLY DATED 28.01.2015 ISSUED BY THE 4TH RESPONDENT.**
- EXHIBIT-P5 COPY OF THE PLAINT IN O.S. NO.140/15 ON THE FILE OF MUNSIFF COURT, KARUNAGAPPALLY.**
- EXHIBIT-P6: COPY OF THE NOTICE DATED 25.02.2015 ISSUED TO THE PETITIONER.**
- EXHIBIT-P7: COPY OF THE NOTICE DATED 25.02.2015 ISSUED TO THE PETITIONER'S HUSBAND.**
- EXHIBIT-P8: COPY OF NOTICE DATED 11.03.2015 ISSUED TO THE PETITIONER.**
- EXHIBIT-P9: COPY OF THE NOTICE DATED 11.03.2015 ISSUED TO PETITIONER'S HUSBAND.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S. TO JUDGE

P.R. RAMACHANDRA MENON, J.

=====

W.P.(C). No. 8361 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"1. Issue a writ of certiorari or other appropriate writ or order quashing Exhibits P6 to P9.

2. Issue a writ of mandamus or other appropriate writ or order commanding respondents 1 to 5 not to take any steps to dispossess the petitioner from her property covered by Exhibits P1 and P2 situated in Clappanna Village, Krunagapally Taluk, Kollam District."

2. The grievance of the petitioner as it appears from the writ petition is that, the 5th respondent issued Exts. P6 to P9 notices to fix the boundaries alleging that there is encroachment at the hands of the petitioner over the Puramboke belonging to the Government and that steps are being taken to dispossess the petitioner which cannot be done without recourse to the proper provisions of law, particularly under the Land Conservancy Act. It is in the said circumstance that interference is sought for by filing this writ petition.

3. Heard the learned Government Pleader as well.

4. The learned counsel for the petitioner submits that the steps taken against the petitioner were mooted by the respondents 6 and 7, who claimed right of way through the property belonging to the petitioner covered by Ext.P1 sale deed. Apprehending adverse

circumstance, the petitioner has filed O.S. 169/12 before the Munsiff's Court Karunagapally against respondents 6 and 7 for a permanent prohibitory injunction and such other reliefs. It is stated that, said O.S. is pending and the concerned Village Officer has been examined in the said case. When the suit is pending there was an attempt from the part of the 4th respondent to dispossess the petitioner from the property holding that the petitioner had already encroached the Government land. This made the petitioner to send notice under Section 80 CPC to all concerned and approached the Munsiff's Court by filing O.S No. 140/2015. It is also pending. It is without any regard to the pendency of the above cases, that the 5th respondent has issued Exts. P6 to P9 notices for fixation of boundaries and if such a course is permitted to be pursued, it will adversely affect the rights and interests of the petitioner and the Civil Suits may be rendered infructuous. Hence the writ petition.

5. The learned Government Pleader appearing for the respondents 1 to 5 submits that, a complaint was received by the concerned respondent, particularly, at the instance of respondents 6 and 7 as to the blocking of their pathway leading to their property through the Puramboke, which was blocked by the petitioner. It was to ascertain whether any extent of Puramboke is held by the petitioner, that the property has been ordered to be measured out by

fixing boundaries with reference to the relevant records. This being the position, there cannot be any grievance against Exts. P6 to P9 and further proceedings if at all any will be in conformity with the statutory requirement, particularly under the Land Conservancy Act.

6. In the above circumstance, this Court finds that there is no merit in the challenge raised by the petitioner against Exts. P6 to P9. No prejudice will be caused to the petitioner in any manner by fixation of boundary with reference to the relevant records. No dispossession shall be effected, unless it is pursuant to appropriate proceedings by issuing proper notice under the Land Conservancy Act and after proper orders to be passed in this regard. It is also made clear that, the steps being pursued by the 5th respondent by issuing Exts. P6 to P9 will not be a bar with regard to the adjudication of the issue pending before the Civil Court.

The writ petition is disposed of accordingly.

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