

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 9834 of 2015 (D)

PETITIONER(S):

**PROF. DR.JOSEPH VARGHESE, AGED 54 YEARS,
S/O.VARGHESE, MYLETTU, ARUVITHARA P.O.,
ERATTUPETTA, KOTTAYAM DISTRICT - 686 122.**

**BY ADVS.SRI.P.CHANDRASEKHAR
SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF PUBLIC WORKS, SECRETARIAT ANNEX,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR,
ERATTUPETTA, KOTTAYAM DISTRICT - 686 122.**
- 3. THE ASSISTANT ENGINEER,
PWD SECTION, ERATTUPETTA, KOTTAYAM DISTRICT - 686 122.**
- 4. ASSISTANT EXECUTIVE ENGINEER,
ROADS SUBDIVISION, PALA - 686 575.**
- 5. ERATTUPETTA GRAMA PANCHAYATH,
MEENACHI TALUK, KOTTAYAM - 686 589,
REPRESENTED BY ITS SECRETARY.**
- 6. THE VILLAGE OFFICER,
ERATTUPETTA, KOTTAYAM DISTRICT - 686 122.**

R1-R4 & R6 BY SENIOR GOVERNMENT PLEADER SRI.GIKKU JACOB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. A TRUE PHOTOCOPY OF THE RECEIPT EVIDENCING THE PAYMENT OF BUILDING TAX.

EXHIBIT P2. A TRUE PHOTOCOPY OF THE POSSESSION CERTIFICATE DATED 31.10.2013.

EXHIBIT P3. A TRUE PHOTOCOPY OF THE OWNERSHIP CERTIFICATE DATED 19.11.2013.

EXHIBIT P4. A TRUE PHOTOCOPY OF THE SALE DEED OF THE PROPERTY DATED 13.12.2004 WITH PRIOR DEEDS DATED 22.12.1994, 14.06.1994, 20.03.1990.

EXHIBIT P5. A TRUE PHOTOCOPY OF THE ENCUMBRANCE CERTIFICATE FROM THE YEAR 1994-2003 DATED 20.11.2013.

EXHIBIT P6. A TRUE PHOTOCOPY OF THE SITE PLAN ISSUED BY THE VILLAGE OFFICER, ERATTUPETTA.

EXHIBIT P7. A TRUE PHOTOCOPY OF THE REPORT FILED BY THE ADVOCATE FOR THE STATE BANK OF INDIA.

EXHIBIT P8. THE PHOTOGRAPH, EVIDENCING THE BREAK UP EARTH IN PETITIONER'S PROPERTY, MADE BY THE ENCROACHERS.

EXHIBIT P9. A TRUE PHOTOCOPY OF THE COMPLAINT GIVEN BY THE PETITIONER TO THE CIRCLE INSPECTOR OF POLICE, DATED 22.10.2013.

EXHIBIT P10. A TRUE PHOTOCOPY OF THE COMPLAINT DATED 22.10.2013 GIVEN TO THE 3RD RESPONDENT.

EXHIBIT P11. A TRUE PHTOCOPY OF THE NOTICE ISSUED UNDER SECTION 11(3) DATED 25.11.2013.

EXHIBIT P12. A TRUE PHOTOCOPY OF THE JUDGMENT DATED 06.02.2015 IN WPC 30926 OF 2013.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.9834 of 2015

Dated this the 16th day of October, 2015

JUDGMENT

The petitioner, aggrieved by an order of notice issued under the Kerala Land Conservancy Act, has approached this Court.

2. It is seen from Ext.P11, the petitioner has encroached upon road puramboke. The petitioner's dispute is that he has not encroached upon any road puramboke. Apparently, this order is issued in a printed form. Therefore, it can only be treated as a notice. If the authorities have determined any encroachment, necessarily, all details of the same shall be given to the petitioner including the sketch. This shall be done within two weeks from the date of receipt of a copy of this judgment. Thereafter, the petitioner shall raise objection to the determination within a further period of four weeks. The Assistant Executive Engineer is directed to pass final orders thereon after hearing the petitioner. Till a decision is taken, no action shall be taken against the petitioner based on Ext.P11. It is further clarified that in the event, the

Assistant Executive Engineer is of the view that the petitioner has encroached and he is liable to be evicted, necessarily, that order shall be kept suspended for a period of two weeks after communicating the same to the petitioner to enable the petitioner to work out his remedy in accordance with law. The petitioner shall produce a copy of this judgment before the Assistant Executive Engineer for compliance.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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