

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10295 of 2015 (J)

PETITIONER :

**SMT. LEELA @ JAYALAKSHMI, AGED 52 YEARS,
W/O. LATE VASUDEVAN NAMBIAR, KUPPADAKKATH HOUSE,
KUNHIMANGALAM, KANNUR DT
PRESENTLY RESIDING AT HAZEL-III, RAHEEJA RESIDENCY
8TH C, MAIN, KORAMANGALA
3RD BLOCK, BANGALORE 560 034, KARNATAKA**

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY,
LOCAL ADMINISTRATION(RB) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001**
- 2. THE DISTRICT COLELCTOR,
CIVIL STATION, KANNUR - 670 001**
- 3. KERALA LAND REVENUE COMMISSIONER,
PUBLIC OFFICE BUILDINGS, MUSEUM,
THIRUVANANTHAPURAM 695 001**
- 4. THE TAHASILDAR
THALIPPARAMBA TALUK, KANNUR DISTRICT - 670 001**
- 5. PERINGOME GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, PERINGOME,
KANNUR DISTRICT 670 307**

R1 TO R4 BY GOVERNMENT PLEADER SRI. JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE PROCEEDINGS IN T.L.B NO 1867/1973
DATED 28/10/1975**

EXHIBIT P2: TRUE COPY OF CERTIFICATE DATED 23-06-2014.

EXHIBIT P3: TRUE COPY OF THE REPRESENTATION DATED 9-10-2014.

EXHIBIT P4: TRUE COPY OF THE REMINDER DATED 10-12-2014.

**EXHIBIT P5: TRUE COPY OF THE JUDGMENT IN WP(C) NO 34486/2014
DATED 04-02-2015**

**EXHIBIT P6: TRUE COPY OF THE ORDER DTD 19-09-2014 ISSUED BY THE 1ST
RESPONDENT**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.10295 of 2015

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Dated this the 31st day of March, 2015

JUDGMENT

Petitioner has approached this Court with the following prayers:-

“i) Issue a writ of mandamus or other appropriate writ or order or direction commanding the respondents to take appropriate action to evict the encroachers from the land belonging to the petitioner in Re.Sy.No.295 of Peringome Village, which is now known as Metro Colony, K.P.Nagar, Peringome Village, Kannur District.

ii) Direct the respondents 1 and 2 to take appropriate action on Ext.P3 representation on merits after affording an opportunity of hearing to the petitioner.

iii) Direct the respondents to grant permission to the petitioner to develop and carryout construction in the property shown in Ext.P3.

iv) Issue a writ of Certiorari or other appropriate writ order or direction calling for the records relating to Ext.P2 and quash the same”

2. The learned counsel for the petitioner points out that some benefits were sought to be obtained by the encroachers with reference to Ext.P2 Government Order dated 23.06.2014 and with this intention they approached this Court by filing

W.P.(C) No.34486/2014, which was disposed of as per Ext.P5 judgment dated 04.02.2015, giving appropriate directions to the first respondent, who is the concerned Grama Panchayat and stands impleaded as 5th respondent in the present writ petition. The learned counsel submits that Ext.P2 Government letter is no more in operation by virtue of supercession of the same as per Ext.P6 Government letter bearing No.54966/RB/14 dated 19.09.2014. The factum of issuance of Ext.P6 Government letter was never brought to the notice of this Court when Ext.P5 judgment was passed. It is in the said circumstances that the petitioner has moved the 2nd respondent/District Collector by filing Ext.P3. The delay in considering the same made the petitioner to approach this Court with the prayers as mentioned herein before.

3. Heard the learned counsel for the petitioner as well as the learned Government Pleader.

4. Since the parties to the writ petition, particularly petitioners in Ext.P5, have not been impleaded in the party array as such, this Court will not be justified in going to the merits of

the case. It is pointed out by the learned Government Pleader that the names of the alleged encroachers who preferred the writ petition leading to Ext.P5 are also not given Ext.P3 representation preferred by them before the District Collector.

5. In view of the submission made by the learned counsel for the petitioner that the grievance projected by her in Ext.P3 pending consideration before the 2nd respondent, any consideration of the merit can only be done with notice to all concerned, particularly the petitioners in Ext.P5 and the concerned persons to whom directions were given by this Court.

6. Accordingly, there will be a direction to the second respondent to consider Ext.P3 and pass appropriate orders in accordance with law and also in the light of all relevant materials, including Ext.P6, after giving an opportunity of hearing to the petitioner herein, the 5th respondent Panchayat and also to the petitioners in W.P.(C) No.34486/2014 wherein Ext.P5 judgment was rendered. The said exercise shall be completed, at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the second respondent, for further steps. The writ petition is disposed of.

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

sj