

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYASHTA, 1937

WP(C).No. 12954 of 2013 (T)

PETITIONER :

MOHAMMAD SULTHAN,
S/O.MALAKU RAWTHAR, AGED 61 YEARS, M.A.S INDUSTRIES,
DOOR NO.343, KANNARA STREET, PALAKKAD - 678 001

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

1. THE PALAKKAD MUNICIPALITY,
REP. BY ITS SECRETARY, MUNICIPAL OFFICE,
PALAKKAD - 678 001
2. M.A.LATHEEF, S/O.MALAKU RAWTHAR.
3. JAMEELA, W/O.M.A.LATHEEF,
RESPONDENTS 2 & 3 ARE RESIDING AT JAMEELA MANZIL,
METUPALAYAM STREET, PALAKKAD -678 002
4. THE SUB DIVISIONAL MAGISTRATE, PALAKKAD - 678 001
5. THE SUB INSPECTOR OF POLICE, TOWN SOUTH POLICE STATION,
PALAKKAD - 678 001.
6. THE VILLAGE OFFICER, PALAKKAD - III VILLAGE,
PALAKKAD - 678 001

R1 BY ADVS. SRI.T.C.SURESH MENON
SRI.P.S.APPU

R2 & R3 BY ADV. SRI.SIRAJ KAROLY

R4 TO R6 BY GOVERNMENT PLEADER SMT. K.T.LILLY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1 A TRUE COPY OF THE ORDER DATED 25.10.1997 IN M.C.NO.76/97
ISSUED BY THE 4TH RESPONDENT
- EXT.P-2 A TRUE COPY OF THE ORDER DATED 31.3.1999 IN CRIMINAL REVISION
PETITION NO.128/97
- EXT.P-3 A TRUE COPY OF THE ORDER DATED 21.8.2001 OF THE 4TH
RESPONDENT
- EXT.P-4 A TRUE COPY OF THE NEWS ITEMS PUBLISHED IN THE MALAYALA
MANORAMA DAILY DATED 29.6.2012, 1.7.2012 & 3.7.2012
- EXT.P-5 A TRUE COPY OF THE ORDER DATED 26.4.2012 OF THE R.D.O.
PALAKKAD.
- EXT.P-6 A TRUE COPY OF THE SALE DEED NO.8216 OF 2010 OF THE SRI
PALAKKAD
- EXT.P-7 A TRUE COPY OF THE OWNERSHIP CERTIFICATE DATED 1 NOVEMBER
2014 ISSUED BY THE PALAKKAD MUNICIPALITY

RESPONDENT(S)' EXHIBITS:

- EXT.R2(1) TRUE COPY OF THE COMPROMISE DEED DATED 22/03/2000 IN
O.S.NO.139/95
- EXT.R2(2) TRUE COPY OF THE ORDER OF THE OMBUDSMAN DATED 22/8/2012 IN
O.P.NO.1232/2012
- EXT.R2(3) TRUE COPY OF THE COMPROMISE SETTLEMENT DATED 25/10/2000 IN
O.S.NO.949/97

/TRUE COPY/

PA.TO JUDGE

A.M.SHAFFIQUE, J

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W.P.C.No.12954 of 2013

Dated this the 16th day of June 2015

J U D G M E N T

This writ petition is filed seeking to implement Ext.P1 order. Ext.P1 order came to be passed on the basis of a complaint given by the petitioner stating that the 2nd respondent has constructed a septic tank across a drainage canal blocking the same and the waste from the septic tank is also drained through the said canal. Though Ext.P1 final order passed by the Sub Divisional Magistrate was confirmed in Criminal Revision Petition No.128/97 and thereafter, SDM directed demolition of the said septic tank from the drainage, no action has been taken so far. Certain newspapers are produced before this Court to indicate that the waste from the septic tank is drained through the said canal.

2. Counter affidavit has been filed by respondents 2 and 3 indicating that the petitioner has no locus standi to file

the writ petition and that the writ petition has been filed in collusion with another person.

3. Having regard to the nature of averments made in the writ petition, it is clear that a final order has been passed by the Sub Divisional Magistrate directing demolition of the structure which obstructs the flow of water. Though the order is passed on 25/10/1997 and confirmed by the revisional authority as per judgment dated 31/03/1999, so far the official respondents have not taken any steps to implement the same, which prompted the petitioner to approach this Court.

4. It is clear from the materials on record that respondents 2 and 3 cannot obstruct the drainage canal and it is for the 1st respondent to ensure that the obstruction is removed at the earliest.

In the result, there will be a direction to the 1st respondent to remove the obstruction in the drainage as directed in Ext.P1 order with the help of respondents 4, 5

and 6 which shall be done within a period of one month from the date of receipt of a copy of this judgment.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

