

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 10744 of 2015 (P)

PETITIONER:

**MOHANAN K.K.,
THERUVATH KANDI HOUSE,
KINALOOR P.O., KOZHIKODE-673 612.**

**BY ADVS.SMT.P.K.RADHIKA
SMT.ALISHA MATHEW
SRI.KOSHY P.GEORGE**

RESPONDENT(S):

- 1. PANANGAD GRAMA PANCHAYATH,
PANANGAD P.O., KOZHIKODE DISTRICT,
REP.BY ITS SECRETARY-673 612.**
- 2. RAJAN, THERUVATH KANDI,
KINALOOR P.O.- 673 612.**

**R1 BY ADVS. SRI.R.SUDHISH
SMT.M.MANJU
R2 BY ADV. SRI.M.G.SREEJITH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 10744 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: A TRUD COPY OF THE REPRESENTATION DATED 27.08.2012 AND
 ENGLISH TRANSLATION.**
- EXT.P2: A TRUE COPY OF THE JUDGMENT DATED 19.09.2014.**
- EXT.P3: A TRUE COPY OF THE STATEMENT MADE BY THE 2ND RESPONDENT
 AND ITS ENGLISH TRANSLATION.**
- EXT.P4: A TRUE COPY OF THE PROCEEDING DATED 09.02.2015 AND ENGLISH
 TRANSLATION.**
- EXT.P5: A TRUE COPY OF THE REPRESENTATION DATED 03.03.2015 AND
 ENGLISH TRANSLATION.**

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.10744 of 2015

Dated this the 13th day of July, 2015.

JUDGMENT

The petitioner has come up before this court alleging laches on the part of the respondents in implementing Ext.P4 order.

2. The petitioner is a resident of Kinaloor, Kozhikode District, coming under the jurisdiction of the first respondent. The petitioner alleges that the second respondent had constructed a house cum shop adjacent to the petitioner's house illegally, in his property having 2 cents of land, near to the boundary wall of the petitioner in such a manner that the roof tiles of the second respondent's house laid would touch the petitioner's compound wall. Since the second respondent started dumping all kinds of waste to the nearby drainage, it caused great health hazards in the locality. The petitioner submitted Ext.P1 representation before the first respondent. However, the panchayat has kept silent over the said

representation. Therefore, the petitioner was constrained to approach this Court through W.P.(C) No.24322/2014 and the same was disposed of with a direction to the panchayat to pass appropriate orders on Ext.P1. The petitioner further alleges that thereafter, the respondent panchayat made sufficient enquires and had issued Ext.P4 order directing the second respondent to demolish the illegal construction made by him and also ordered him to shift the residence from the building meant for commercial purpose. The second respondent has not yet obeyed the order; it is alleged.

3. Though notice has been served on both respondents, only respondent panchayat appeared. The party respondent has not turned up.

4. The learned standing counsel for the respondent panchayat on instructions, would submit that the respondent panchayat is ready to make an inspection and if the construction of the second respondent is not in accordance with the law, the respondent panchayat shall proceed against

the party respondent in accordance with law.

Therefore, the writ petition is disposed of directing the first respondent to make a local inspection of the premises of the second respondent to see whether the construction is in accordance with the Rules and if there is any violation, the respondent panchayat shall proceed against the second respondent in accordance with law, after hearing the petitioner and the second respondent an opportunity of being heard. This shall be done within a period of one month from the date of receipt of a copy of this judgment.

A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.