

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 11112 of 2015 (L)

PETITIONER(S):

**THANKAPPAN NADAR, AGED 64 YEARS
S/O.L.LEKSHMANAN NADAR, PANAYIL PUTHEN VEEDU
TC.21/899(2), KEEZHARANOOR, NEDUMCAUD
KARAMANA, THIRUVANANTHAPURAM.**

BY ADV. SRI.G.SUDHEER

RESPONDENT(S):

- 1. THE SUB DIVISIONAL MAGISTRATE
THIRUVANANTHAPURAM - 695 001.**
- 2. SMT. SYLAJA, D/O.NARAYANI, AGED 40 YEARS
THAZHECHARUVILA J.S. NIVAS
PAPPANAMCODE P.O., THIRUVANANTHAPURAM - 695 001.**
- 3. VASANTHA, D/O.NARAYANI, AGED 46 YEARS
CHIRAKKUZHIMELE VEEDU, TC.21/1490, NEDUMCAUD
KEEZHARANOOR , KARAMANA P.O,
THIRUVANANTHAPURAM-695001.**

R1 BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE ORDER DATED 21.10.2008 IN MC NO.64/2008 PASSED BY THE SUB COLLECTOR & SUB DIVISIONAL MAGISTRATE THIRUVANANTHAPURAM.
- EXT.P2 - TRUE COPY OF THE ORDER DATED 7.3.2011 IN PETITION NO.1040/2010 PASSED BY THE OMBUDSMAN OF LOCAL SELF GOVERNMENT THIRUVANANTHAPURAM
- EXT.P3 - TRUE COPY OF THE ORDER ISSUED BY THE SECRETARY, THIRUVANANTHAPURAM CORPORATION DATED 25.6.2012 TO THE PETITIONER
- EXT.P4 - TRUE COPY OF THE ORDER DATED 7.7.2011 IN CRL.M.C.NO.1703/2011 PASSED BY THIS HONOURABLE COURT.
- EXT.P5 - TRUE COPY OF THE ORDER DATED 4.12.2012 IN C.M.P.NO.351/2012 IN O.P. NO.1040/2010 PASSED BY THE OMBUDSMAN, LOCAL SELF GOVERNMENT, THIRUVANANTHAPURAM
- EXT.P6 - TRUE COPY OF THE O.S.NO.371/2013 DATED NIL. 3/2013 FILED BY THE PETITIONER AND OTHERS BEFORE THE MUNSIFF COURT, THIRUVANANTHAPURAM
- EXT.P6(A) - TRUE COPY OF THE ORDER OF INJUNCTION IN IA NO.2278/2013 IN O.S. NO.371/2013 DATED 26.3.2013 PASSED BY THE MUNSIFFS COURT-IV THIRUVANANTHAPURAM.
- EXT.P6(B) - TRUE COPY OF THE WRITTEN STATEMENT AND COUNTER CLAIM FILED BY THE DEFENDANTS IN O.S.NO.371/2013 BEFORE THE MUNSIFF COURT THIRUVANANTHAPURAM DATED 28.1.2014
- EXT.P7 - TRUE COPY OF THE PETITION FILED BY THE RESPONDENTS 2 AND 3 BEFORE THE RDO THIRUVANANTHAPURAM DATED 28.1.2013
- EXT.P8 - TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN M.C.NO.81/2013 BEFORE THE SUB DIVISIONAL MAGISTRATE COURT, THIRUVANANTHAPURAM DATED 20.6.2013
- EXT.P9 - TRUE COPY OF THE ORDER NO.MC.1.81/13 DATED 17.3.2015 PASSED BY THE SUB DIVISIONAL MAGISTRATE COURT, THIRUVANANTHAPURAM.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

PJ

P.S. TO JUDGE

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 11112 of 2015

Dated this the 6th day of April, 2015

JUDGMENT

The grievance of the petitioner is mainly with regard to the Ext.P9 order dated 17.03.2015 passed by the 1st respondent under Section 133 of the Cr.P.C. The learned counsel for the petitioner points out that, the impugned proceedings have been pursued and passed at the instance of respondents 2 and 3 absolutely without any regard to the actual facts and figures. On an earlier instance, the true state of affairs was brought to the notice of the 1st respondent by submitting Ext.P8 along with copies of all the relevant records as early as in the year 2013. The said proceedings are still pending consideration before the 1st respondent which has been numbered as MC.1-81/2013. It is without any regard to the said proceedings/objection raised by the petitioner that the 1st respondent chose to pass Ext.P9 order on 17.3.2015, which hence is sought to be intercepted in the writ petition.

2. Heard the learned Government Pleader as well.

3. Going by the contents of the proceedings, it is seen that Ext.P9 is only a provisional order under Section 133 of the Cr.P.C and as per the said order, the petitioner has been given an opportunity to submit the objection, if any, and hearing has been scheduled on 8.4.2015 at 2.30 pm. In the above circumstance, it is always open for the petitioner to appear before the 1st respondent and submit a detailed statement of objections in response to Ext.P9, also referring to Ext.P8 and such other proceedings, if any. It shall be for the 1st respondent to consider the same and pass final orders after hearing the petitioner and other interested parties, including respondents 2 and 3. The entire materials forming part of the record, including Ext.P8 shall also be considered while finalizing the proceedings as aforesaid.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps. The writ petition is disposed of.

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