

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

WP(C).NO. 18509 OF 2007 (C)

PETITIONER(S) :

**GHEEVARGHESE YOHANNAN, AGED 58 YEARS,
S/O.LATE SRI.YOHANNAN, KUZHIVILA PUTHENVEEDU
NELLIKUNNAM P.O., KOTTARAKKARA TALUK, REPRESENTED
BY HIS POWER OF ATTORNEY HOLDER-KOSHY MATHEWS
AGED 49 YEARS, S/O.C.M.MATHEWS, CHAKKALAYIL HOUSE
THALAVADY P.O., VIA. THIRUVALLA**

**BY ADVS.SRI.MOHAN JACOB GEORGE
SMT.P.V.PARVATHY
SMT.REENA THOMAS
SRI.L.RAM MOHAN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, REVENUE DEPARTMENT,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.**
- 2. DISRICT COLLECTOR, KOLLAM.**
- 3. ADDITIONAL TAHSILDAR,
KOTTARAKKARA.**
- 4. SUPERINTENDENT OF SURVEY,
KOTTARAKKARA.**
- 5. TALUK SURVEYOR, KOTTARAKKARA.**

BY GOVERNMENT PLEADER SRI. MANOJ KUNCHACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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WP(C).NO. 18509 OF 2007 (C)

APPENDIX

PETITIONER(S) EXHIBITS :

EXT.P1(a) : COPY OF DEED NO.1667/1990.

EXT.P1(b) : COPY OF DEED NO.1683/1990

EXT.P1(c) : COPY OF DEED 1668/1990.

EXT.P1(d) : COPY OF DEED NO.1846/1993.

EXT.P1(e) : COPY OF DEED NO.1840/1989

EXT.P1(f) : COPY OF DEED NO.1919/2000.

EXT.P1(g) SERIES: COPY OF TAX RECEIPTS.

EXT.P2 : COPY CERTIFICATE ISSUED BY THE LOCAL PANCHAYATH EVIDENCING THE
AGE OF THE BUILDING.

EXT.P3 : COPY NOTICE NO.33900/2007 DATED 26.05.2007 BY THE THIRD
RESPONDENT.

EXT.P3(A) : A PHOTOGRAPH EVIDENCING THE "X" MARKING ON THE BUILDING.

EXT.P4 : COPY OF THE SURVEY PLAN PREPARED BY THE SURVEY AUTHORITIES.

EXT.P5 : THE RELEVANT PORTION OF THE PLAN (ENLARGED COPY) SHOWING THE
PROPERTY OF THE PETITIONER (SPECIFICALLY) SURVEYED AND
DEMARCATED BY THE SURVEY AUTHORITIES.

EXT.P6 : COPY OF THE COMPLAINT PETITION SUBMITTED BY THE PETITIONER.

RESPONDENT(S) EXHIBITS : NIL

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/ TRUE COPY /

P.A. TO JUDGE

A. MUHAMED MUSTAQUE, J.

.....
W.P.(C) No. 18509 of 2007 (C)

.....
Dated this the 10th day of September, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- A. Declare that the petitioner is not liable to be dispossessed from his property covered by Ext.P1(a to f) series and the building of the petitioner bearing No.KP IV 831 to 837 situate in Block No.22, Re sy no.145 of Kottarakara village is not liable to demolished under the guise of fixation of boundaries of the National Highway without acquiring the property and building of the petitioner in accordance with law.
- B. Call for the records relating to Ext.P3 and quash same as illegal, arbitrary and direct the respondents to conduct a proper enquiry after affording sufficient opportunity to the petitioner to adduce evidence and to pass a speaking order on the same.
- C. Pass an order of injunction restraining the respondents from dispossessing the petitioner from his property or demolishing the building without invoking the provisions of the Land Acquisition Act.
- D. Pass an order reprimanding the 4th respondent for the act of marking "X" on the building property of the petitioner without the authority of law.
- E. Grant such other reliefs as are deemed fit and proper.
- F. Grant the cost of this Writ Petition.

2. Heard the learned Government Pleader for the respondents as well.

3. The learned counsel for the petitioner submits that, the only relief now pressed before this Court is for an order restraining the respondents from dispossessing the petitioner from his property or demolishing the building without invoking the provisions of the Land Acquisition Act.

4. Accordingly, this Court is of the view that, if the petitioner had not been dispossessed from the property so far the petitioner can be dispossessed or evicted only in accordance with the procedure established under law after due notice to him.

It is also made clear that, fresh proceedings need to be required in this matter. In view of the above, the impugned notice is quashed.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE

AMV/14/09/