

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C) .No. 15328 of 2012 (M)

PETITIONER(S) :

BINCY MANOJ, AGED 27 YEARS,
DAUGHTER OF SHRI PHILIP,
EDAVILAYIL HOUSE, THATTAKKAD P.O., PALAMATTOM,
KOTHAMANGALAM - 686 691,
(NOW RESIDING AT EDAVILAYIL HOUSE, KOOVAPPARA P.O.
KOTHAMANGALAM, ERNAKULAM DISTRICT, PIN-686 681).

BY ADVS.SRI.TPM.IBRAHIM KHAN (SR.)
SRI.K.M.ABDUL MAJEED
SMT.ASHA ELIZABETH MATHEW

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
IRRIGATION DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM - 695001.

2. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, COLLECTORATE, KAKKANAD,
KOCHI-682030.

3. THE EXECUTIVE ENGINEER,
PERIYAR VALLEY IRRIGATION PROJECT (PVIP) ,
PVIP DIVISION NO.-I, PERUMBAVOOR,
ERNAKULAM DISTRICT - 683542.

4. THE KEERAMPARA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, KEERAMPARA P.O.
KOTHAMANGALAM, ERNAKULAM DISTRICT - 686691.

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5. THE TAHSILDAR,
KOTHAMANGALAM TALUK, TALUK OFFICE, KOTHAMANGALAM
ERNAKULAM DISTRICT - 686691.

6. THE KOTHAMANGALAM BLOCK PANCHAYATH,
REPRESENTED BY ITS SECRETARY, KOTHAMANGALAM P.O.
ERNAKULAM DISTRICT, PIN-686691.

R4 BY ADV. SRI.B.S.SIVAJI
R1-R3 & R5 BY GOVERNMENT PLEADER SRI. V.K. RAFAEK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 16-11-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C) NO.15328 OF 2011

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 - PHOTOSTAT COPY OF THE LAND TAX RECEIPT NO.G3430569 DATED 14/3/2012 IN BOOK NO.G34306 ISSUED BY THE VILLAGE OFFICE, KEERAMPARA VILLAGE IN FAVOUR OF THE PETITIONER.

EXT.P2 - PHOTOSTAT COPY OF THE LETTER NO.A3-1457/12 DATED 28/3/2012 ISSUED BY THE 4TH RESPONDENT TO THE ASSISTANT EXECUTIVE ENGINEER OF PVIP, BOOTHATHANKETTU.

EXT.P3 - PHOTOSTAT COPY OF THE LETTER NO.140/2012 DATED 13/6/2012 ISSUED BY THE VILLAGE OFFICER, KEERAMPARA.

EXT.P3(A) - PHOTOSTAT COPY OF THE LOCATION MAP PREPARED BY THE VILLAGE OFFICER, KEERAMPARA.

EXT.P4 - PHOTOSTAT COPY OF THE LETTER DATED 14/5/2012 SUBMITTED BY THE PETITIONER BEFORE THE HONOURABLE MINISTER FOR IRRIGATION, THIRUVANANTHAPURAM.

EXT.P4(A) - PHOTOSTAT COPY OF THE REPRESENTATION DATED 25/5/2012 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS.

EXT.P5 - PHOTOSTAT COPY OF THE REPRESENTATION DATED 14/3/2012 SUBMITTED BY THE PETITIONER BEFORE THE HONOUORABLE CHIEF MINISTER OF KERALA.

EXT.P6 - PHOTOSTAT COPY OF THE LETTER NO.A1-42/10 DATED PVIP, BOOTHATHANKETTU TO THE THIRD RESPONDENT.

EXT.P7 - PHOTOSTAT COPY OF THE REPRESENTATION DATED 14/5/2012 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

//true copy//

P.S. to Judge

K. HARILAL, J.

W.P. (C) No.15328 of 2012-M

Dated this the 16th day of November, 2015

JUDGMENT

The petitioner is the owner in possession of 18 cents of land comprised in Sy.No.594/1A under Thandapper No.7915 of Keerampara Village in Kothamangalam Taluk. According to her, this is the only property belonging to her and the remaining portion of the land happened to be acquired for the purpose of Periyar Valley Irrigation Project (PVIP). Consequently, the said land became isolated and remained without any access to the public road. The petitioner has intended to construct a residential building in the said property, being the only property. She had filed representations before the 1st and 2nd respondents to provide a road through the property

belonging to the PVIP which is lying vacant and drop the proposal to allot the above said remaining land to the Panchayat for the purpose of making a play ground. In spite of the positive recommendations made by the concerned authorities, the Village Officer, the Tahsildar and the Assistant Executive Engineer, PVIP, which are evidenced by Exts.P2, P3 and P3(a) respectively, no effective steps have been taken by the 3rd respondent for granting permission for the neglected portion of the area belonging to the PVI Project for the purpose of constructing a road access to the petitioner's property which happened to be isolated by the acquisition. But, at the same time, the respondents have provided road access to similarly situated land owners and that amounts to discrimination. Aggrieved by the inaction on the part of the 3rd respondent, the petitioner made Ext.P5 representation to the concerned Minister, Government of Kerala; but no action had been taken so far. So also, made Ext.P7 representation to the 2nd respondent so as to expedite further proceedings, on the recommendations made by the concerned authorities

under Exts.P2, P3, P3(a) etc. If the property is allotted to the Panchayat, for making a play ground, the petitioner will be deprived of an access to the aforesaid property for ever. This is the grievance projected by the petitioner in this writ petition. Hence the petitioner prayed for issuing a writ of mandamus or any other appropriate writ, direction or order directing the respondents 1 to 3 to earmark a road to the petitioner's property from the Kothamangalam - Palamattom road to an extent of 150 Mtrs. length so as to enable the petitioner to have road access to her property.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. Going by the averments in the writ petition, it is seen that the petitioner's property has lost road access on the reason that the remaining property has been acquired for public purpose. In such circumstances, it is incumbent upon the authorities to provide road access to the remaining property, if the same is possible though the property in possession of the Government. Going by Exts.P2, P3 and P3(a), it is

evident that the concerned authorities have made recommendations accepting the need projected by the petitioner.

4. Having regard to the facts and circumstances of this case, I find that it is incumbent upon the 2nd respondent to satisfy the need projected by the petitioner in Ext.P7, if the petitioner's property remains in isolation, due to acquisition. In the above view of the matter, the 2nd respondent is directed to consider and pass orders on Ext.P7 representation filed by the petitioner within a period of two months from the date of production of a copy of this judgment, after affording an opportunity of being heard to the petitioner.

This writ petition is disposed of accordingly.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge