

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 13546 of 2015 (P)

PETITIONER(S):

**SIMON RAJ, AGED 62 YEARS,
S/O.VACKO, VARIYETH HOUSE,
CHERANALLOOR, KOCHI- 34.**

**BY ADVS.SRI.PRAVEEN K. JOY,
SRI.T.A.JOY.**

RESPONDENT(S):

- 1. STATE OF KERALA, REVENUE DEPARTMENT,
REP. BY ITS SECRETARY, SECRETARIAT,
TRIVANDRUM.**
 - 2. DISTRICT COLLECTOR, ERNAKULAM.**
 - 3. REVENUE DIVISIONAL OFFICER, KOCHI.**
 - 4. STATE IMPACT ASSESSMENT AUTHORITY,
PATTOM, TRIVANDRUM.**
 - 5. THE VILLAGE OFFICER,
CHERANELLOOR VILLAGE, ERNAKULAM.**
 - #6. M/S. SKYLINE BUILDERS,
SKYLINE HOUSE, RAJAJI ROAD, ERNAKULAM,
COCHIN -682 035, REP. BY ITS MANAGING DIRECTOR. (CORRECTED)**
- # AMEND THE NAME OF THE 6TH RESPONDENT AS
"M/S. SKYLINE BUILDERS AND DEVELOPERS INDIA PVT. LTD."
INSTEAD OF "M/S. SKYLINE BUILDERS" AS PER ORDER
DATED 17/12/2015 IN I.A. NO.7044/2015.**

*** ADDL. R7 & R8 IMPEADED**

**7. THE SECRETARY,
CHERANELLOOR GRAMA PANCHAYATH.**

**8. SENIOR TOWN PLANNING OFFICER,
TOWN PLANNING OFFICE,
ERNAKULAM.**

*** ADDL. R7 & R8 ARE IMPEADED AS PER ORDER DATED 10/06/2015 IN
I.A. NO.7432/2015.**

**** ADDL. R9 IMPEADED**

**9. BALAKRISHNAN, AGED 69 YEARS,
S/O. NARAYANAN, THUNDIPARAMBIL,
CHERANELLOOR, CHERANELLOOR VILLAGE,
KANAYANNUR TALUK, ERNAKULAM.**

**** ADDL. R9 IS IMPEADED AS PER ORDER DATED 17/12/2015 IN
I.A. NO.9753/2015.**

**R1 TO R5 & ADDL. R8 BY GOVT. PLEADER SRI.GIKKU JACOB.
R6 BY ADVS. SRI.K.I.MAYANKUTTY MATHER,
SRI.R.JAIKRISHNA.
ADDL. R7 BY ADV. SRI.T.KAJITHKUMAR (VALATH).
ADDL. R9 BY ADV. SRI.P.S. SUJETH.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1: TRUE PHOTOCOPY OF THE TAX RECEIPT DATED 09/12/2014 OF CHERANELLOOR VILLAGE.
- EXT.P2: TRUE PHOTOCOPY OF THE TAX RECEIPT OF BUILDING OF CHERANELLOOR PANCHAYATH.
- EXT.P3: TRUE PHOTOGRAPHS OF THE PETITIONER'S BUILDING.
- EXT.P4: TRUE PHOTOCOPY OF THE COMPLAINT BEFORE THE 3RD RESPONDENT.
- EXT.P5: TRUE PHOTOCOPY OF THE COMPLAINT BEFORE THE 2ND RESPONDENT.
- EXT.P6: COPY OF THE HEARING NOTICE DATED 12/05/2015 OF THE 3RD RESPONDENT.
- EXT.P7: COPY OF THE COMPLAINT DATED 28/03/2015 BEFORE THE SECRETARY, CHERANELLOOR PANCHAYATH.
- EXT.P8: COPY OF THE LETTER FROM CHERANELLOOR GRAMA PANCHAYATH DATED 07/07/2015.

RESPONDENT'S EXHIBITS & ANNEXURES:-

- EXT.R6A COPY OF THE SKETCH SHOWING THE LIE OF OUR PROPERTY AND THE SURROUNDING LOCALITY DATED NIL.
- EXT.R6B COPY OF THE BUILDING PERMIT ISSUED BY CHERANELLOOR GRAMA PANCHAYATH DATED 03/09/2014.
- EXT.R6C COPY OF THE DRAWING DATED NIL.
- EXT.R6D COPY OF THE LAYOUT APPROVAL ISSUED BY THE OFFICE OF THE SENIOR TOWN PLANNER, ERNAKULAM DATED 27/04/2015.
- EXT.R6E COPY OF THE INSURANCE POLICY TAKEN BY THE 6TH RESPONDENT FROM FUTURE GENERAL INDIA INSURANCE COMPANY LTD. DATED 02/02/2015.

- EXT.R6F COPY OF THE MINUTES OF THE JOINT MEETING WITH THE NEIGHBOURING RESIDENTS IN THE SUBJECT LOCALITY DATED 19/03/2015.**
- EXT.R6G PHOTOGRAPH OF THE SUBJECT BUILDING OF THE PETITIONER DATED NIL.**
- EXT.R6H PHOTOGRAPH OF THE SUBJECT BUILDING OF THE PETITIONER DATED NIL.**
- EXT.R6I PHOTOGRAPH OF THE SUBJECT BUILDING OF THE PETITIONER DATED NIL.**
- EXT.R6J COPY OF THE RELEVANT EXTRACT OF THE MINUTES OF THE 30TH MEETING OF SEAC DATED 07/06/2014.**
- EXT.R6K COPY OF THE RELEVANT EXTRACT OF THE 31ST MEETING OF SEAC DATED 30/07/2014.**
- EXT.R6L COPY OF THE RELEVANT EXTRACT OF THE 35TH MEETING OF SEAC DATED 18/10/2014.**
- EXT.R6M COPY OF THE COMMUNICATION OF THE SECRETARY, CHERANELLOOR GAMA PANCHAYATH TO THE SENIOR TOWN PLANNER DATED 16/02/2015.**
- EXT.R6N COPY OF THE PROCEEDINGS OF THE SENIOR TOWN PLANNER, ERNAKULAM DATED 07/07/2014.**

ANNEXURE I COPY OF THE PHOTOGRAPHS.

ANNEXURE II COPY OF THE TAX RECEIPT DATED 09/10/2014.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 13546 of 2015

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Dated this the 17th day of December, 2015

J U D G M E N T

The writ petition is filed for following reliefs:

“i. To issue writ, order or direction in the nature of mandamus directing the 2 to 5 respondent to take necessary action to stop illegal construction carrying out by 6th respondent and also direct the 3rd respondent to assess the damage caused by the illegal construction of the 6th respondent and to initiate appropriate action, in the interest of justice.

ii. To issue writ, order or direction in the nature of mandamus directing the 2nd and 3rd respondent to take up Ext.P4 and P5 complaint and to stop the illegal construction carried out by the 6th respondent, without the papers of impact assessment authority and to assess the damage caused by the illegal construction of the 6th respondent and to pass appropriate orders to pay compensation within a time limit, in the interest of justice.

iii. To grant such other reliefs as may be deemed fit and proper.”

2. The petitioner's main case is that the 6th respondent has undertaken piling work without environmental clearance and permit issued by the local authority is illegal as it was issued without ensuring that the 6th respondent has obtained

environmental clearance.

3. As of now it is admitted that the environmental clearance has been issued to the 6th respondent. The environmental clearance was issued after inspection and report of the Committee. The permit issued by the Panchayat is also not under challenge before this Court. Therefore this Court is of the view that there is no further scope to agitate the issue regarding the non compliance relating to environmental clearance.

4. If at all the petitioner has any grievance against the permit issued in violation of the any rules, certainly, the petitioner has a remedy to challenge the permit before the appropriate Tribunal. Thus in the absence of any challenge regarding the permit, it is not proper for this Court to interfere in this matter.

5. The petitioner's other challenge in this case is by stating that his residential building has been adversely affected on account of the construction undertaken by the 6th respondent. In fact this is a disputed factual issue involving the civil right of

the petitioner. The remedy of the petitioner is to approach a civil court. Therefore with the liberty as above, the writ petition is disposed of.

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sab

A.MUHAMED MUSTAQUE, JUDGE