

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 16308 of 2013 (K)

PETITIONER(S):

VIJAYAN PILLAI, AGED 42 YEARS,
S/O. LATE RAGHAVAN PILLAI,
THADATHIL VADAKKEKKARA VEEDU, ERUMAKUZHI MURI,
PANAYIL.P.O., NOORANAD, PALMEL. PIN-690 504.

BY ADV. SRI. UNNIKRIISHNAN.V. ALAPATT

RESPONDENT(S):

1. THE DISTRICT COLLECTOR,
ALAPPUZHA DISTRICT. 688 001.
2. THE TAHSILDAR,
MAVELIKKARA TALUK, ALAPPUZHA DISTRICT. 688 583.
3. THE VILLAGE OFFICER,
PALAMEL VILLAGE, MAVELIKKARA TALUK,
ALAPPUZHA. 688 583.
4. SOMAN NAIR,
PUTHENVEETIL KIZHAKKETHIL, ERUMAKUZHI MURI,
PANAYIL.P.O., NOORANAD, PALMEL,
PIN-690 504.
5. SAROJINIYAMMA
KINARVILAYIL, -DO-, -DO-
6. VIJAYAMMA,
THADATHIL VEEDU, OF -DO-, -DO-
7. SARASWATHYAMMA,
THADATHIL VEEDU, OF -DO-, -DO-
8. GOPALAKRISHNA PILLAI,
-DO-, -DO-

p.t.o.

WP(C).No. 16308 of 2013 (K)

9. AMBILY,
KRISHNAVILASAM, -DO-, -DO-

10. KRISHNAN NAIR,
KRISHNAVILASAM, -DO-, -DO-

* Addl.11. SECRETARY,
PALAMEL GRAMA PANCHAYATH, NOORANAD P.O.,
ALAPPUZHA - 690 504.

*ADDL.R11 IS IMPEADED AS PER ORDER DATED 09.06.2015 IN IA NO.6648/15.

R1 TO R3 BY GOVERNMENT PLEADER, SRI. SOJAN JAMES
R4 BY ADV. SRI.S.SHANAVAS KHAN
R5 BY ADV. SRI.G.UNNIKRISHNAN
R9 & 10 BY ADV. SMT.AMBILY (PREMKUMAR)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

WP(C).No. 16308 of 2013 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1- A TRUE COPY OF THE REPORT WITH THE SKETCH DTD. 22.07.2011.
- P2- A TRUE COPY OF THE NOTICE GIVEN TO THE RESPONDENT 4 TO 10 DATED 03.01.2012.
- P3- A TRUE COPY OF THE NOTICE DTD. 31.01.2012.
- P4- A TRUE COPY OF THE PETITION DTD. 30.03.2013.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

SHAJI P. CHALY, J.

W.P.(C)No.16308 of 2013

Dated this the 13th day of November, 2015

JUDGMENT

This writ petition is filed by the petitioner seeking direction to Respondents 1 to 3 to evict Respondent Nos.4 to 10 from the Puramboke pathway for the free use of the petitioner and for other related reliefs.

2. It is contended by the petitioner that he is residing in a building situated in Survey No.359/7, 14 in Block No.19 of Palamel Village, Mavelikkara Taluk. By the side of the said property, there is a Puramboke pathway leading to the public road from the residence of the petitioner. The said pathway is encroached by Respondents 4 to 10 and thereupon he has filed complaints before the 2nd Respondent. Pursuant to the said complaints, Ext.P2 series of notices were issued by the 2nd Respondent to the party Respondents and has passed Ext.P3 series of orders whereby the party Respondents were directed to vacate the encroached portion of the Puramboke road. The said order has become final. Since the same is not implemented, petitioner has filed Ext.P4, before the 1st

Respondent under Sec.11(3) of the Kerala Land Conservancy Act, 1957, seeking to implement the orders passed by the 2nd Respondent.

3. Heard learned counsel for the petitioner, learned Government Pleader and learned counsel for the party Respondents. Even though notice is served on the Additional 11th Respondent, Panchayat, nobody has entered appearance.

4. Learned Government Pleader reiterated the contentions in the counter affidavit and submitted that Ext.P3 series of orders are to be implemented by the Panchayat. Anyhow, the matter is now pending before the 1st Respondent and therefore it is for the 1st Respondent to take action under the provisions of the Kerala Land Conservancy Act.

5. Having considered the rival submissions and perusing the records, I am of the considered opinion that a direction to the District Collector to take necessary action pursuant to Ext.P4 will suffice the situation.

6. Therefore, there will be a direction to the 1st Respondent to take action pursuant to Ext.P4, taking into account Ext.P3 series of orders in accordance with law and within a period of 30 days from the date of receipt of a copy of

this judgment.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-
13.11.2015