

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

WP(C).No. 17555 of 2010 (S)

PETITIONER:

**FRANCIS MANJOORAN, MANJOORAN HOUSE,
VYTTILA.P.O, ERNAKULAM DISTRICT,
PRESIDENT OF THE INDIAN NATIONAL CONGRESS,
VYTTILA MANDALAM.**

BY ADV. SRI.M.V.MATHEW

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE CORPORATION OF KOCHI,
REPRESENTED BY SECRETARY,
KOCHI CORPORATION.**
- 3. DISTRICT COLLECTOR, ERNAKULAM.**
- 4. THE TAHSILDAR, TALUK OFFICE,
KANAYANNOOR.**
- 5. VILLAGE OFFICER, ERNAKULAM.**
- 6. THE SECRETARY,
T.K.RAMAKRISHNAN SAMSKARIKA KENDRAM,
LENIN CENTRE, KALOOR, KOCHI-17.**

**R1, R3 TO R5 BY SENIOR GOVT. PLEADER SRI.P.IDAVIS
R2 BY SRI.S.RAMESH BABU, SC
R6 BY ADVS. SRI.P.K.SURESH KUMAR
SRI.V.C.MADHAVANKUTTY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : COPY OF RELEVANT PAGES OF IMPLEMENTATION OF FAST TRACK PROJECT (CLAUSE & 8 IN ANNEXURE 2)
- EXT.P2 : COPY OF THE LETTER ISSUED FROM THE OFFICE OF DISTRICT COLLECTOR TO THE 4TH RESPONDENT WITH ENGLISH TRANSLATION DATED 27.10.2007.
- EXT.P3 : COPY OF THE LETTER ISSUED FROM THE VILLAGE OFFICE TO THE 4TH RESPONDENT WITH ENGLISH TRANSLATION DATED 17.1.2009.
- EXT.P4 : COPY OF LETTER SENT FROM THE OFFICE OF DISTRICT COLLECTOR TO THE 1ST RESPONDENT (ALONG WITH A REPORT) WITH ENGLISH TRANSLATION DATED 30.12.2009.
- EXT.P5 : TRUE COPY OF LETTER SENT FROM TALUK OFFICE TO DISTRICT COLLECTOR WITH ENGLISH TRANSLATION DATED 6.2.2009.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No.17555 of 2010

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Dated this, the 3rd day of August, 2015

J U D G M E N T

Shaffique, J.

Petitioner has filed this writ petition in the form of a Public Interest Litigation seeking the following reliefs:

"A) Direct the respondent 1 to 5 to utilize the properties stated in Ext.P2 to Ext.P5 proceedings for rehabilitation of the displaced persons and evictees in the Vyttila-Petta road widening scheme and for other similar schemes in the Kochi city, for the purpose of their resettlement in accordance with the guidelines in Fast Track Projects and according to the priorities by the issue of a writ of mandamus or such other writ or order or direction.

B) Declare that transferring any landed property in pursuance of Ext.P2 to P5 proceedings to the 6th respondent is illegal by issue of a writ of mandamus or such other writ or direction.

C) Prohibit the respondent no 1 to 5 from transferring the properties stated in the Ext.P2 to P5 or any other properties to the respondents no 6 by issue of a writ of prohibition or such other writ or order direction.

D) Direct the respondent no 1 to include the

-:2:-

Vyttila-Petta road widening scheme in the Fast Track Project and complete the construction immediately by issue of a writ of mandamus or such other writ or order or direction".

2. In the counter affidavit filed by respondents 1, 4 and 5, it is stated that as per GO(Ms) No.146/2010/Rev. dated 24/4/2010, 15 cents of land in Sy.No.843 of Ernakulam Village was given on lease in favour of the 6th respondent for a period of 30 years. It is stated that the writ petition was filed after issuance of the said Government Order.

3. Learned counsel for the petitioner submits that he may be permitted to withdraw the writ petition with liberty to challenge the Government Order dated 24/4/2010. Learned counsel appearing for the 6th respondent submits that the aforesaid Government Order was under challenge in WP(C) No.15198/2010 which came to be dismissed by this Court. Under such circumstances, we do not think that any leave can be granted to the petitioner, that too to challenge a Government Order dated 24/4/2010 at this point of time.

Having regard to the nature of contentions urged in the writ petition, we do not think that such issues can be raised in a Public

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Interest Litigation. It is well within the prerogative of the Government to initiate acquisition proceedings in terms with the statutory provisions and the personal opinion of the petitioner cannot be enforced on the Government. Under such circumstances, we do not think that the petitioner is entitled for any relief as prayed for. Accordingly, the writ petition is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge