

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. 18138 of 2012 (N)

PETITIONER(S) :

MUHAMED RAFEEQ, AGED 27 YEARS
S/O. MARAKKAR, CHIGATHU VEEDU, THIRURKKADU P.O.
THIRUR VILLAGE, VALAMPOOR VILLAGE
MALAPPURAM DISTRICT.

BY ADVS.SRI.C.RAJENDRAN
SMT.R.S.SREEVIDYA

RESPONDENT(S) :

1. DISTRICT COLLECTOR,
MALAPPURAM DISTRICT, MALAPPURAM-676505.

2. SUB COLLECTOR,
PERINTHALMANNA-679322.

3. VILLAGE OFFICER,
VALAMPOOR, PERINTHALMANNA-679322.

4. ANGADIPURAM GRAMA PANCHAYATH,
ANGADIPURAM, MALAPPURAM DISTRICT,
REP. BY ITS SECRETARY-679321.

R4 BY ADV. SRI.SAJU.S.A
R-3 BY GOVERNMENT PLEADER SRI.V.K.RAFEEK

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

WP(C) .No. 18138 of 2012 (N)

APPENDIX

PETITIONER(S) EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE SALE DEED NO. 18689 DATED
20/01/2011.

EXHIBIT P2: TRUE COPY OF THE NOTICE DATED 10-07-2012.

EXHIBIT P3: TRUE PHOTO OF THE FOUNDATION BASEMENT FILLED WITH
EARTH.

RESPONDENTS' EXHIBITS: NIL

OKB

True copy

P.A. to Judge

K.HARILAL, J.

W.P.(C) No.18138 of 2012

Dated this the 16th day of November, 2015.

JUDGMENT

The petitioner is the owner of the landed property having an extent of 8 cents comprised in Sy. No.110/14 of Valampoor Village, Perinthalmanna Taluk, Malappuram District. He submitted an application to the 4th respondent, seeking permission for constructing a residential building. The committee constituted by the 4th respondent investigated and convinced that the property is lying as a garden land and told the petitioner that he could proceed with the construction and same would be regularised. While so, the 2nd respondent issued Ext.P2 notice to the petitioner, requiring him to remove the earth put in the landed property within one month and to do paddy cultivation therein in the ensuing paddy cultivation and if the petitioner disobeys the said direction, the

landed property would be converted as Government land as per paragraph No.7(3) of the Kerala Land Utilisation Order. This is the grievance projected in this writ petition.

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

3. The learned Government Pleader submits that the impugned order has been passed in exercise of the jurisdiction and power granted to the 2nd respondent under Section 7(1) of the Kerala Land Utilisation Order, 1967 and the petitioner has not availed of the statutory remedy under Section 11 of the Kerala Land Utilisation Order.

4. Going by the impugned order, it is seen that as rightly submitted by the learned Government Pleader, the order has been passed in exercise of jurisdiction under Section 7 of the Kerala Land Utilisation Order, 1967, for which the remedy by way of an appeal is provided to the aggrieved party under Order XI of the said Order. So also, the impugned order does not show that an opportunity of being heard was

given to the petitioner before passing the said order. According to the petitioner, at present, the said land is lying as garden land and reclamation was effected much earlier.

5. Having regard to the facts and circumstances of the case, particularly, in view of the fact that the order impugned does not show that an opportunity of being heard was given to the petitioner, the petitioner is relegated to the statutory authority provided under Order XI of the Kerala Land Utilisation Order, 1967. If an appeal is filed before the Land Revenue Commissioner within two months from the date of receipt of a copy of this judgment, the appellate authority will consider the appeal and pass orders within a period of three months from the date of filing the appeal.

This writ petition is disposed of accordingly.

Sd/-
K. HARILAL, JUDGE

okb.