

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 14819 of 2014 (B)

PETITIONER:

1. R.SASIDHARAKURUP
KOVILAKAM, PALLARIMANGALAM P.O, MAVELIKARA
 2. JAYAPRAKASH
VISHNU BHAVANAM, PALLARIMANGALAM P.O, MAVELIKKARA
 3. PRAKASH KUMAR
MANGATTU HOUSE, PALLARIMANGALAM P.O, MAVELIKARA
- BY ADVS.SRI.GEORGE VARGHESE (PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SRI.MANU SEBASTIAN

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO THE DEPARTMENT OF REVENUE
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001
 2. DISTRICT COLLECTOR,
COLLECTORATE, ALAPPUZHA 688 001
 3. MAVELIKARA BLOCK PANCHAYAT,
REPRESENTED BY ITS SECRETARY
OFFICE OF BLOCK PANCHAYATH, MAVELIKARA 690 101
 4. BLOCK DEVELOPMENT OFFICER, MAVELIKARA 690 101
 5. THEKKEKARA GRAMA PANCHAYAT,
REPRESENTED BY SECRETARY
THEKKEKARA GRAMA PANCHAYATH, MAVELIKKARA 690 101
 6. ASSISTANT EXECUTIVE ENGINEER
DISTRICT RURAL DEVELOPMENT AGENCY, ALAPPUZHA 688 001
 7. PARAMESWARAN NAIR
VELIYIL VADAKKATHIL, PALLARIMANGALAM P.O
MAVELIKKARA 690 107
- SRI.NOUSHAD THOTTAHTIL, GOVERNMENT PLEADER
R5 BY ADV. SRI.VINCENT JOSEPH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
RKC

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT P1 A TRUE COPY OF G.O(RT) NO 4986/2005/RD DATED 24-08-2005 OF THE 1ST RESPONDENT

EXHIBIT P2 A TRUE COPY OF PROCEEDINGS NO N3 2000/05(17) DATED 22-10-2005 OF THE 2ND RESPONDENT

EXHIBIT P3 A TRUE COPY OF TECHNICAL SANCTION NO 309/AEE(I)/05-06 DATED 09-11-2005

EXHIBIT P4 A TRUE COPY OF MINUTES OF MEETING HELD ON 12-12-2005 FOR CONSTITUTING BENEFICIARY COMMITTEE

EXHIBIT P5 A TRUE COPY OF AGREEMENT NO 31/05-06 ENTERED INTO BETWEEN THE 4TH AND 7TH RESPONDENT

EXHIBIT P6 A TRUE COPY OF SUPPLEMENTAL AGREEMENT DATED 30-04-2007

EXHIBIT P7 A TRUE COPY OF PETITION IN HRMP 4028/07 ON THE FILE OF THE STATE HUMAN RIGHTS COMMISSION

EXHIBIT P8 A TRUE COPY OF LETTER NO E 983/07 DATED 21-11-2007 MADE BY SECRETARY,BLOCK PANCHAYAT MAVELIKARA TO THE REGISTRAR,STATE HUMAN RIGHTS COMMISSION

EXHIBIT P9 A TRUE COPY OF LETTER NO 983/05 DATED 20-06-2008 MADE BY THE 4TH RESPONDENT TO THE 7TH RESPONDENT

EXHIBIT P10 A TRUE COPY OF MINUTES OF MEETING HELD ON 30-06-2008

EXHIBIT P11 A TRUE COPY OF LETTER NO 983/05 DATED 05-02-2010 ISSUED BY THE 4TH RESPONDENT TO THE 7TH RESPONDENT

EXHIBIT P12 A TRUE COPY OF COMMUNICATION NO DMCI-2842/2006 DATED 16-07-2013 MADE BY THE 2ND RESPONDENT TO THE 4TH RESPONDENT

RESPONDENTS' EXHIBITS: NIL

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TRUE COPY

PA TO JUDGE

P.V.ASHA, J.

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Dated this the 23rd day of June, 2015

JUDGMENT

The grievance of the petitioners, who are residents of Pallarimangalam Mavelikkara-Thekkekkara Grama Panchayat is over the delay in completion of the repair and maintenance work of Thekkekkara Pallarimangalam Karayogam Mukku-Kollakkal Mukku Road.

2. In the year 2005, the Government had, as per Ext.P1 Government order - G.O(Rt) No.4986/2005/RD dated 24.8.2005, sanctioned a sum of ₹2,00,000/- for repair and restoration of Thekkekkara Pallarimangalam Karayogam Mukku-Kollakkal Mukku Road under the scheme 'Natural Calamity Flood Relief Work'. By Ext.P2 proceedings dated 22.10.2005, administrative sanction was accorded for execution of the work, which was followed by Ext.P3 technical sanction. For execution of the work a beneficiary committee under the convenorship of 7th respondent was constituted and they entered into Ext.P5 agreement on 26.12.2005, for completion of the work within a stipulated

period. By Ext.P6, the time for completion of work was extended up to 15.6.2007.

3. The case of the petitioners is that the beneficiary committee as well as the convener stopped the work half way and the repair work of the road was never completed. The residents of the locality had approached the Panchayat as well as various authorities including the Human Rights Commission to get the road repaired on account of the difficulties faced by them. But no positive action was taken. It is also stated that the convener of the beneficiary committee did not turn up despite repeated requests to complete the work. It is also stated that even though another committee was appointed for completion of the balance work, nobody was willing to take up the work. As such the condition of the road became miserable, causing severe hardship and inconvenience to the public.

4. It was in this circumstance, the petitioners approached this Court praying for a direction to the Block Development Officer-the 4th respondent, to take appropriate action to see the works entrusted as per Ext.P1 is completed; for a direction to

respondents 3 and 4 to execute the repairing and restoring the work of the road in accordance with the provisions of the Kerala Panchayat Raj (Execution of Works) Rules after obtaining special sanction from the first respondent, if necessary and for a further direction to all the respondents to undertake repair and maintenance work of the road and complete the same.

5. The 4th respondent has filed a counter affidavit stating that non-completion of the work was on account of the irresponsibility of the beneficiary committee and none of the members of the beneficiary committee have turned up even after several notices were issued. The convener of the committee failed to complete the work as also to respond the notices issued to him directing to complete the work. It is stated that the members of the beneficiary committee had no unity to complete the work. It is further stated that the sanction for the work, which was under the specified scheme 'Natural Calamity Flood Relief Work' of 2005, has already lapsed and for continuing the work further sanction is required from the Government.

6. It is seen that the 7th respondent-the convener of

beneficiary committee has undertaken only a partial work worth Rs.1,01,051/- as against the administrative sanction for the sum of Rs.2,00,000/- under the special scheme initiated in the year 2005. Now the grievance of the residents of the locality is on account of the pathetic condition of the road.

7. It is for the 5th respondent Grama Panchayat to see that the roads under it are maintained properly and to enable the residents to have their right to have proper and adequate facilities for transportation and for that purpose to undertake work of repair and restoration of the road. Just because the road was under repair on the basis of the funds under separate schemes sanctioned by the Government, nothing prevents the Panchayat from exercising its statutory duties by undertaking the work of repair of the road under it as and when required. Therefore notwithstanding the fact that the repair work was completed half way by the beneficiary committee under Ext.P1 scheme, the Panchayat should have undertaken the repair work under its own fund.

Therefore there shall be a direction to the 5th respondent to

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undertake the work of repair and restoration of the Thekkekara Pallarimangalam Karayogam Mukku-Kollakkal Mukku Road as expeditiously as possible and at any rate within a period of three months from the date of receipt of a copy of the judgment.

Sd/-
P.V.ASHA,
JUDGE.

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