

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937**

**WP(C).No. 15177 of 2015 (V)**  
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**PETITIONER(S):**  
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1. RAMACHANDRAN U., S/O.DAMODARAN,  
UPPAMOCHIKKAL HOUSE, THENNADY BAZAAR, OTTAPPALAM P.O.  
PALAKKAD DISTRICT.
2. SMT.GEETHA, W/O.MOHANDAS U.,  
UPPAMOCHIKKAL HOUSE, THENNADY BAZAAR, OTTAPPALAM P.O.  
PALAKKAD DISTRICT.

**BY ADVS.SRI.V.M.KURIAN  
SRI.MATHEW B. KURIAN  
SRI.K.T.THOMAS**

**RESPONDENT(S):**  
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1. THE DISTRICT COLLECTOR, PALAKKAD,  
PINCODE-678 104, PALAKKAD DISTRICT.
2. THE TAHSILDAR, TALUK OFFICE,  
OTTAPPALAM, PINCODE-679 101, PALAKKAD DISTRICT.
3. THE ADDL. TAHSILDAR, TALUK OFFICE,  
OTTAPPALAM, PINCODE-679 101, PALAKKAD DISTRICT.
4. THE DEPUTY TAHSILDAR (INSPECTION), TALUK OFFICE,  
OTTAPPALAM, PINCODE-679 101, PALAKKAD DISTRICT.

**BY SENIOR GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
09-09-2015 ALONG WITH WP(C) 15178/2015 THE COURT ON  
THE SAME DAY DELIVERED THE FOLLOWING:**

**msv/**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- P1- TRUE COPY OF THE SETTLEMENT DEED NO.848/2010 OF THE OTTAPPALAM SUB REGISTRY.
- P2- TRUE COPY OF THE BASIC TAX RECEIPT DATED 06.05.2015 ISSUED BY THE VILLAGE OFFICE, OTTAPPALAM-II.
- P3- TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 01.04.2012 ISSUED BY THE REGISTERING AUTHORITY.
- P4- TRUE COPY OF THE RECEIPT DATED 15.05.2015 EVIDENCING PAYMENT OF WATER BILL.
- P5- TRUE COPY OF THE RECEIPT DATED 09.02.2015 ISSUED BY THE OTTAPPALAM MUNICIPALITY.
- P6- TRUE COPY OF THE SETTLEMENT DEED NO.846/2010 OF THE OTTAPPALAM SUB REGISTRY.
- P7- TRUE COPY OF THE BASIC TAX RECEIPT DATED 24.04.2010 ISSUED BY THE VILLAGE OFFICE, OTTAPPALAM-II.
- P8- TRUE COPY OF THE LICENCE ISSUED BY OTTAPPALAM MUNICIPALITY.
- P9- TRUE COPY OF THE RECEIPT DATED 08.05.2015 ISSUED BY KSEB.
- P10- TRUE COPY OF THE RECEIPT DATED 28.02.2015 ISSUED BY THE OTTAPPALAM MUNICIPALITY.
- P11- TRUE COPY OF THE NOTICE DATED 20.04.2015 ISSUED BY THE 3RD RESPONDENT TO 1ST PETITIONER.
- P12- TRUE COPY OF THE NOTICE DATED 20.04.2015 ISSUED BY THE 3RD RESPONDENT TO MOHANDAS.
- P13- TRUE COPY OF THE NOTICE DATED 11.05.2015 ISSUED BY THE 3RD RESPONDENT TO 1ST PETITIONER.
- P14- TRUE COPY OF THE NOTICE DATED 11.05.2015 ISSUED BY THE 3RD RESPONDENT TO MOHANDAS.
- P15- TRUE COPY OF THE REPRESENTATION DATED 19.05.2015 SUBMITTED BY THE 1ST PETITIONER.

Msv/

**WP(C).No. 15177 of 2015 (V)**  
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**P16- TRUE COPY OF THE REPRESENTATION DATED 19.05.2015 SUBMITTED BY THE  
2ND PETITIONER.**

**P17- TRUE COPY OF THE SKETCH OF THE PROPERTY AND BUILDING OF  
1ST PETITIONER.**

**P18- TRUE COPY OF THE SKETCH OF THE PROPERTY AND BUILDING OF  
MOHANDAS.**

**RESPONDENT(S)' EXHIBITS:**  
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**EXT.R3(a): TRUE COPY OF THE STATEMENT DTD.29.4.2015.**

**EXT.R3(b): TRUE COPY OF THE STATEMENT DTD.29.4.2015.**

**EXT.R3(c): TRUE COPY OF THE CONSENT LETTER.**

**//TRUE COPY//**

**P.S.TO JUDGE**

Msv/

**A. MUHAMED MUSTAQUE, J**

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**W.P.(C).No. 15177 & 15178 of 2015**  
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**Dated this the 09<sup>th</sup> day of September, 2015**

**JUDGMENT**

The petitioners approached this Court under the Kerala Land Conservancy Act, 1957. The petitioners have been served with the notice issued under the Kerala Land Conservancy Act to vacate the encroachment.

2. The learned counsel for the petitioners submit that there is no formal enquiry in this matter. Further, it is submitted that they are prepared to surrender, if any portion is found encroached by them.

3. In this matter, a counter affidavit has been filed by the Official Respondents. It is stated that the land was measured in the presence of the petitioners and the petitioners agreed to vacate the encroachment by 18.05.2015.

4. However, it is to be noted, one of the petitioner *Geetha* in W.P.(C) No.15177/2015 has agreed to surrender if she is satisfied that she has encroached upon Government land. It appears that the dispute regarding the identification

of the encroached area.

5. This Court is of the view, in view of the fact that the proceedings are initiated under the Kerala Land Conservancy Act, there should be formal order of finding of encroachment. If the land has been measured already in the presence of the petitioners, necessarily, the order shall be communicated to the petitioners along with the sketch, if any prepared.

Therefore, there shall be a direction to the Tahsildar to issue necessary orders relating to the encroachment to the petitioners. This shall be done within one month. However, if the measurement or sketch was prepared, without issuing notice, needful shall be done after issuing formal notice to the petitioners, and advertng to the objection of the petitioners. The respondents shall proceed further only after issuing final order to the petitioners in the light of the discussion as above.

The writ petition is disposed of as above.

Sd/-

**A. MUHAMED MUSTAQUE, JUDGE**

bpr