

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 15768 of 2015 (U)

PETITIONER:

**NILAMEL GRAMA PANCHAYAT
NILEMAL P.O.,
KOLLAM-691535
REPRESENTED BY ITS ASSISTANT SECRETARY IN FULL
ADDITIONAL CHARGES OF THE SECRETARY.**

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

- 1. SHAJI S.
S/O. SIVADASAN, AISWARYA, ALTHARAMOODU
KADAKKAL P.O., PULIPARA, KOLLAM-691 536.**
- 2. JAYALAL
"LEKSHMI", OPP: POLICE STATION, KADAKKAL P.O.
KOLLAM-691536.**
- 3. SHAJAHAN
SHANI MANZIL, KAITHODE P.O., NILAMEL
KOLLAM-691535.**
- 4. FIROS KHAN
M.S.MANZIL, VAIKKAL, KAITHODE P.O.
NILAMEL, KOLLAM-691535.**
- 5. ARUN A.
S/O. NARAYANA PILLA, ASAMANDRAM, KUTTIKAD
KADAKKAL, KOLLAM-691536.**

BY ADV. SRI.LATHEESH SEBASTIAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE LETTER DATED NIL ISSUED BY ASSISTANT ENGINEER TO THE 2ND RESPONDENT
- EXT.P2: TRUE COPY OF THE NOTICE NO. 4505/B3/KLM/KSCSC & ST DATED 31.3.2014
- EXT.P3: TRUE COPY OF THE NOTICE NO.A5 3288/14 DATED 1.1.2015 ISSUED TO THE 1ST RESPONDENT BY THE PETITIONER
- EXT.P4: TRUE COPY OF THE NOTICE NO.A5 3288/14 DATED 1.1.2015 ISSUED TO THE 2ND RESPONDENT BY THE PETITIONER
- EXT.P5: TRUE COPY OF THE NOTICE NO.A5 3288/14 DATED 1.1.2015 ISSUED TO THE 3RD RESPONDENT BY THE PETITIONER
- EXT.P6: TRUE COPY OF THE NOTICE NO.A5 3288/14 DATED 1.1.2015 ISSUED TO THE 4TH RESPONDENT BY THE PETITIONER
- EXT.P7: TRUE COPY OF THE NOTICE NO. A5 3288/14 DATED 1.1.2015 ISSUED TO THE 5TH RESPONDENT BY THE PETITIONER
- EXT.P8: TRUE COPY OF THE COUNTER AFFIDAVIT DATED 29.3.2015 FILED BY THE PETITIONER HEREIN BEFORE THIS HONOURABLE COURT IN W.P(C) NO.9743 OF 2015 (WITHOUT THE EXHIBITS)
- EXT.P9: TRUE COPY OF THE JUDGMENT DATED 9.4.2015 PASSED BY THIS HONOURABLE COURT IN WPC NO.9743 OF 2015
- EXT.P10: TRUE COPY OF THE JUDGMENT DATED PASSED BY THIS HONOURABLE COURT IN WANO. 888 OF 2015
- EXT.P11: TRUE COPY OF THE NOTICE DATED 8.5.2015 ISSUED BY THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN OP 732/15 FILED BY THE 1ST RESPONDENT
- EXT.P12: TRUE COPY OF THE NOTICE DATED 8.5.2015 ISSUED BY THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN OP 734/15 FILED BY THE 2ND RESPONDENT
- EXT.P13: TRUE COPY OF THE NOTICE DATED 8.5.2015 ISSUED BY THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN OP 729/15 FILED BY THE 4TH RESPONDENT
- EXT.P14: TRUE COPY OF THE NOTICE DATED 8.5.2015 ISSUED BY THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN OP 733/15 FILED BY THE 5TH RESPONDENT

- EXT.P15: TRUE COPY OF OP NO. 729/15 DATED MAY 2015 FILED BEFORE THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS BY THE 4TH RESPONDENT**
- EXT.P16: TRUE COPY OF OP NO.733/15 DATED MAY 2015 FILED BEFORE THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS BY THE 5TH RESPONDENT**
- EXT.P17: TRUE COPY OF OP NO.732/15 DATED MAY 2015 FILED BEFORE THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS BY THE 1ST RESPONDENT**
- EXT.P18: TRUE COPY OF THE ORDER DATED 29.4.2015 PASSED BY THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN IA 114/15 IN OP 732/15 FILED BY THE 1ST RESPONDENT**
- EXT.P19: TRUE COPY OF THE ORDER DATED 29.4.2015 PASSED BY THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN IA 113/15 IN OP 732/15 FILED BY THE 1ST RESPONDENT**
- EXT.P20: TRUE COPY OF THE ORDER DATED 29.4.2015 PASSED BY THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN IA 116/15 IN OP 729/15 FILED BY THE 4TH RESPONDENT**
- EXT.P21: TRUE COPY OF THE NOTICE DATED 29.5.2015 PASSED BY THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN IA 115/15 IN OP 733/15 FILED BY THE 5TH RESPONDENT**

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 15768 OF 2015

Dated this the 12th day of October, 2015

JUDGMENT

The Ombudsman for Local Self Government Institutions cannot sit in appeal over the judgment of this Court. Ext.P9 judgment was rendered in a writ petition wherein the petitioner herein was the first respondent and the respondents herein were the petitioners. Ext. P9 judgment inter alia concluded as follows:-

“8. In the facts and circumstances, I find no justification to interfere with the decision taken by the respondent Grama Panchayat. At any rate, the fact remains that the petitioners have been continuing with their business for the past about one decade; it is only fair that the respondent Grama Panchayat may provide two weeks' time for the petitioners to vacate their respective shop rooms.

In the facts and circumstances, this writ petition stands disposed of with the above direction. It is made clear that, if the petitioners do not vacate within two weeks, the respondent Grama Panchayat is at liberty to effect the eviction process with the necessary police assistance.”

2. W.A. No. 888/2015 filed against Ext. P9 judgment by the respondents herein was dismissed as withdrawn evidenced by Ext. P10 judgment. Exts. P9 and P10 judgments therefore enable the petitioner Panchayat to effect eviction process with necessary police assistance. Exts. P18 to P21 orders of stay of eviction granted by the Ombudsman for Local Self Government Institutions are bad in law. The action of the respondents in moving the Ombudsman for Local Self Government Institutions after having suffered Exts. P9 and P10 judgments from this Court is an abuse of process of law. Exts. P18 to P21 orders are hence quashed.

The writ petition is allowed. No costs.

**V. CHITAMBARESH
JUDGE**

DCS