

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

WP(C).No. 16300 of 2015 (J)

PETITIONER:

**SIVADASAN G.,
S/O. GOPINATHAN, AGED 34 YEARS,
KUNNUMPURATH PUTHEN VEEDU,
EDAMULACKAL POST, PANACHAVILA,
ANCHAL, KOLLAM DISTRICT-691306.**

**BY ADVS.SRI.SEBASTIAN JOSEPH (KURISUMMOOTIL)
SRI.JOHNSON K.KURIEN**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
KOLLAM, PIN-691001.**
- 2. REVENUE DIVISIONAL OFFICER,
KOLLAM-690001.**
- 3. THE THAHAZILDAR,
PUNALUR, KOLLAM DISTRICT-691305.**
- 4. THE VILLAGE OFFICER, EDAMULACKAL VILLAGE,
ANCHAL, KOLLAM-691305.**
- 5. THE TALUK SURVEYOR,
PUNALUR, KOLLAM DISTRICT-691305.**
- 6. L.CHACKO, S/O. LUKOSE, THAZHEPUTHENVEEDU,
PANACHAVILA, EDAMULACKAL POST, ANCHAL,
KOLLAM, PIN-691306.**

**R1 TO R5 BY GOVERNMENT PLEADER SRI.S.JAMAL
R6 BY ADV. SRI.ANCHAL C.VIJAYAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1- TRUE COPY OF THE BTR REGISTER DESCRIBING SAID LANAD AS 'PURAMBOKE' SARKAR VAKA AND PATHWAY.
- EXHIBIT P2- TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE RDO ON 27-02-2015.
- EXHIBIT P3- TRUE COPY OF THE REPORT DATED 09-03-2015 BY THE VILLAGE OFFICER SUBMITTED BEFORE RDO.
- EXHIBIT P4- TRUE COPY OF THE ORDER DTD. 30-3-2015 ISSUED BY THE OFFICE OF THE R.D.O., KOLLAM.
- EXHIBIT P5- TRUE COPY OF THE REVISION PETITION FILED BY THE 6TH RESPONDENT BEFORE THE 1ST RESPONDENT DISTRICT COLLECTOR.

RESPONDENT(S)' EXHIBITS:

- EXT.R6(A) : TRUE COPY OF THE JUDGMENT DATED 18.3.2015 IN WRIT PETITION(CIVIL) NO.8524 OF 2015 ON THE FILES OF THE HON'BLE HIGH COURT OF KERALA.
- EXT.R6(B) : TRUE PHOTOS OF THE RESIDENTIAL BUILDING OF THE PETITIONER AND THE TREES STANDING NEAR TO THE BUILDING.

/TRUE COPY/

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

W.P(C). No.16300 of 2015

Dated this the 22nd day of June, 2015.

JUDGMENT

The petitioner and the 6th respondent are adjacent property owners. The dispute herein is with respect to the trees allegedly standing in a pathway between the two properties. The 6th respondent however would assert that, there is no pathway and the portion, which is styled as a pathway in Ext.P2 report, belongs to the petitioner himself. In a resurvey conducted, the 6th respondent's property, which had 1.82 Acres extent, was reduced to 1.80 Acres, which reduction in resurvey is pending consideration in a revision under Section 13A of the Kerala Survey and Boundaries Act, 1961 before the District Collector as seen in Ext.P5. The 6th respondent has also approached this Court seeking consideration of the said revision expeditiously, which was granted as per Ext.R6(a).

2. The petitioner's prayer in the writ petition is to give effect

to Ext.P4 without waiting for the result of Ext.P5 revision petition. That definitely is not possible, since the issue of whether there is a pathway between the properties of the petitioner and the 6th respondent is a matter, which is pending consideration before the District Collector. As to the expeditious disposal of Ext.P5, no orders need be passed by this Court, since there is already an order of this Court as is indicated in Ext.R6(a).

3. The further contention is with respect to the trees remaining in the alleged pathway, over which the 6th respondent asserts ownership. The 6th respondent also asserts ownership over the trees standing in the said property.

In such circumstances, if any branches are overhanging into the petitioner's property, the same shall be cut and removed.

The writ petition would stand disposed of with the above directions and leaving open the contentions of either parties to be urged before the District Collector. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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