

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 16309 of 2015 (K)

PETITIONER :

**BABU, AGED 60 YEARS, S/O. K.P KUIRAKU,
KAVANAL HOUSE, KADUNGAMANGALAM
THIRUVANGULAM P.O, ERNAKULAM 682 305**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS :

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, CIVIL STATION, KAKKANAD
ERNAKULAM - 30**
- 3. THE TALUK TAHSILDAR,
KANAYANNUR TALUK OFFICE, ERNAKULAM 682312**
- 4. THE VILLAGE OFFICER,
KURIAKAD VILLAGE OFFICER, ERNAKULAM 682312**
- 5. T.J. THAMPY, AGED 72 YEARS,
S/O. T K JOHN, THIRUTHIL HOUSE,
THIRUVANKULAM, ERNALULAM 682312**
- 6. JAISON JOSE, S/O. JOSE KURISINGAL,
KURISINGAL HOUSE, KADUNGAMANGALAM,
KANAYANNUR TALUK, ERNAKULAM 682 312**
- 7. JOSE JOSEPH, KURISINGAL HOUSE,
KADUNGAMAMGALAM, KANAYANNUR TALUK,
ERNALULAM 682312**

8. THE CHOTTANIKARA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, CHOTANIKARA P.O.,
ERNAKULAM DISTRICT 682 312.

R1 TO R4 BY GOVERNMENT PLEADER SRI. MANOJ P. KUNJACHAN
R5 BY ADVS. SRI.M.M.SAIDU MUHAMMED
SRI.BINU VARGHESE (ERNAKULAM)

R6 & R7 BY ADVS. SRI.ABRAHAM P.GEORGE
SRI.K.VINODKUMAR (707/89)
SMT.M.SANTHY

R8 BY SRI.S.SREEKUMAR SENIOR ADVOCATE
R8 BY ADVS. SRI.P.MARTIN JOSE
SRI.THOMAS P.KURUVILLA
SRI.P.PRIJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: A TRUE COPY OF THE EINGLISH TRANSLATED VERSION OF THE GIFT DEED BEARING NO.1932 OF 96 OF THE MULATHURUTY S R O DATED 1.6.96.
- P2: A TRUE COPY OF THE ORIGINAL SURVEY SKETCH CONCERNING FILED NO.361 OF THE KURIKAD VILLAGE DATED NIL.
- P3: A TRUE COPY OF THE JUDGMENT IN WP(C) NO.18888 OF 2013 DATED 26.6.2014 ON THE FILE FO THIS HONOURABLE COURT
- P4: A TRUE COPY OF THE SKETCHES AS BROUGHT OUT BY THE RE SURVEY DEPARTMENT DATED 5.4.2014

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P..A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

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W.P(C)No.16309 of 2015

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Dated this the 2nd day of December, 2015

JUDGMENT

Fifth respondent had approached this Court in Writ Petition No.18888/2013. This Court directed District Collector to find out public pathway claimed by the 5th respondent. Thereafter, it appears that, Revenue Officials have taken steps to identify the public pathway. Petitioner approaches this Court seeking direction commanding respondents not to interfere with his property by effecting any measurement and to prevent them from demolishing the compound wall.

2. It is to be noted, attempt has been made by the Revenue Officials to identify the public pathway claimed by the 5th respondent. Therefore, petitioner shall co-operate with such attempt initiated by the Revenue Officials as directed by this Court. However, certainly if it is found that the petitioner has encroached upon Government land which is a public pathway, action can be taken only in accordance with the Kerala Land Conservancy Act. It is made clear that before taking decision in

this regard, petitioner shall be given opportunity to raise objections and also to produce documents. Only after adverting to the objections and documents produced by the petitioner, action in this regard can be taken by the Revenue Officials.

Writ petition is disposed of.

Sd/-
A.MUHAMED MUSTAQUE,
JUDGE

vdv/04/12/15