

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).No. 16941 of 2015 (P)

PETITIONER : -

RAHEL ABRAHAM, AGED 79 YEARS,
W/O P.M.ABRAHAM,
RESIDING ATPALAPPILLIL HOUSE,
PAMPAKUDA PO, ONAKKOOR VILLAGE,
MUVATTUPUZHA TALUK, PIN - 686 667.

BY ADVS.SRI.M.M.MONAYE
SRI.M.PAUL VARGHESE
SRI.T.KOSHY

RESPONDENTS : -

1. PAMPAKUDA GRAMA PANCHAYAT,
PAMPAKUDA PO, ERNAKULAM DIST, PIN - 686 667,
REPRESENTED BY ITS SECRETARY.
2. THE SECRETARY,
PAMPAKUDA GRAMA PANCHAYAT PAMPAKUDA PO,
ERNAKULAM DISTRICT, PIN - 686 667.
3. SAKARIA P. ISAAC,
PUTHUSSEERIL (H), KAKKOOR PO, PROPRIETOR,
P.S.GROUP HOLLOW BRICKS, PAMPAKUDA PO,
REPRESENTED BY HIS POWER OF ATTORNEY MR. PAUL KURIAKOSE,
AGED 32 YEARS, S/O A.P. KURIAKOSE,
KOOLYATTU NJATTUVEETIL,
BRAHMAPURAM PO, AMBALAMUGAL 682 303.
4. THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS,
COURT COMPLEX, VANCHIYOOR,
THIRUVANANTHAPURAM 695035,
REPRESENTED BY ITS SECRETARY.

BY GOVERNMENT PLEADER SMT. K.A. SANJEETHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

- EXT.P1 : TRUE COPY OF THE RESOLUTION NO.V(5) DATED 30/8/2014 OF THE
1ST RESPONDENT.
- EXT.P2 : TRUE COPY OF THE APPEAL DATED 7/11/14 OF THE THIRD
RESPONDENT.
- EXT.P3 : TRUE COPY OF THE OBJECTION DATED 11/12/14 OF THE
PETITIONER.
- EXT.P4 : TRUE COPY OF THE ADDITIONAL OBJECTION DATED 10/4/15 OF
THE PETITIONER.
- EXT.P5 : TRUE COPY OF THE OBJECTION DATED 12/12/14 FILED BY THE
2ND RESPONDENT.
- EXT.P6 : TRUE COPY OF THE PETITION DATED 29/5/15 OF THE PETITIONER'S
HUSBAND BEFORE THE CHIEF INFORMATION COMMISSIONER.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

A.V. RAMAKRISHNA PILLAI,J.

W.P.(c) No. 16941 of 2015

Dated this the 08th day of June, 2015

JUDGMENT

Alleging that respondents 1 and 2 are proceeding to act upon the direction of Tribunal for Local Self Government Institutions, the petitioner has come up before this Court.

2. Petitioner is a resident at Pampakuda in Pampakuda Grama Panchayat for more than 45 years. Petitioner's eighty three year old husband, her son and his family are living with the petitioner. Petitioner and husband are jointly in possession and ownership of the property in Sy. No.829/1 and 829/2 of Onakkoor Village, in which the residential house of the petitioner's family is situated. The third respondent, who is a resident of the nearby Thirumarady Panchayat is having 4 acres of uninhabited, accessible land with all facilitate within a radius of 750 meters from the place of residence of the petitioner and another 50 cents and

other property in the Thirumarady Panchayat. He started a solid cement bricks unit without obtaining any licence or consent from anywhere very near to the residence of the petitioner. As it is a residential area and as the noise, dust etc. polluted the whole area, the people of the locality started agitation and submitted complaints before various authorities including the first and second respondents. Consequently, the production of bricks was stopped. A Christian Church by name Indian Pentecostal Church of God, which was functioning there for the last more than 60 years, also has submitted a complaint. The petitioner alleges that subsequently, the third respondent, in collusion with the second respondent Secretary submitted applications to get the permit for installation and the licence, but the Grama Panchayat Committee has resolved not to give consent to erect the machinery for the production of solid bricks. Hence, the third respondent filed an appeal before the Tribunal for Local Self Government Institutions, Thiruvananthapuram against the said resolution. The petitioner got impleaded as additional third respondent in the said appeal and filed objections. An argument note also

was filed by the petitioner. The appeal was finally heard by the Tribunal on 08.05.2015 at Ernakulam Camp and posted for orders on 14.05.2015 at Trivandrum. It was adjourned to 16.05.2015 and the order was pronounced on the said day. From the 'A Diary' kept in the Tribunal it is found that the decision of the Panchayat is set aside and directions issued to the Secretary to conduct site inspection and to file report within a period of one month starting from 16.05.2015 and to reconsider the application submitted by the third respondent. Memo for free copy of the order of the Tribunal was filed by the petitioner on 18.05.2015 as Memo No. 1062/15 on the files of the Tribunal. However, till date copy of the order is not issued to the petitioner. Since the order of the Tribunal is not issued to the petitioner, he is not in a position to challenge the said order. It is with this background that the petitioner has come up before this Court.

3. When the matter came up for hearing, the learned counsel for the petitioner has confined his arguments to the limited prayer for a direction to the respondents to keep further action in abeyance till a copy of the order of the

Tribunal is served on the petitioner.

4. Considering the nature of submission, this Court is of the view that this petition can be disposed of even without issuing notice to the respondents.

Therefore, this writ petition is disposed of directing respondents 1 and 2 to serve a copy of the order of the Tribunal on the petitioner within a period of two weeks from the date of receipt of a copy of this judgment. Till the copy is served on the petitioner and the petitioner is heard on the issue by the respondents 1 and 2, further action on the direction of the Tribunal shall be kept in abeyance.

**A.V. RAMAKRISHNA PILLAI
JUDGE**

DMR/-