

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 17314 of 2014 (L)

PETITIONER(S) :

P G SADANANDAN,
PADANNAYIL HOUSE, TRIPUNITHURA SOUTH, ERNAKULAM.

BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN
SRI.SIDDHARTH KRISHNAN

RESPONDENT(S) /RESPONDENTS:-:

1. CHOTTANIKKARA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, CHOTTANIKKARA, ERNAKULAM
PIN - 682 312.

2. THE SECRETARY,
CHOTTANIKKARA GRAMA PANCHAYAT, CHOTTANIKKARA
ERNAKULAM, PIN - 682 312.

3. THE ADDITIONAL TAHSILDAR,
KANAYANNUR TALUK OFFICE, KOCHI - 682 011.

4. SUBAIDA,
KARIMPINTHARA VEEDU, BYE-PASS ROAD, CHOTTANIKARA
ERNAKULAM, PIN - 682 312.

5. KARTHIKEYAN,
SOWPARNIKA, BYE-PASS ROAD, CHOTTANIKARA
ERNAKULAM, PIN - 682 312.

R4 BY ADV. SRI.R.LAKSHMI NARAYAN
R4 BY ADV. SMT.R.RANJINI
R1,R2 BY ADV. SRI.S.SREEKUMAR (SR.)
R1,R2 BY ADV. SRI.P.PRIJITH
R-R5 BY ADV. SRI.P.A.MARTIN ROY
R BY GOVERNMENT PLEADER SHRI. ABHIHIT LESIL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE SALE DEED DATED 01.09.1997 IN FAVOUR OF THE PETITIONER.

EXHIBIT P2. TRUE COPY OF THE JUDGMENT DATED 09.04.2014 IN W.P.(C) NO.8061/2013.

EXHIBIT P3. TRUE COPY OF THE LETTER GIVEN BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT TO THE 2ND RESPONDENT DATED 30.05.2014.

EXHIBIT P3(A). TRUE COPY OF THE SKETCH PREPARED BY THE 3RD RESPONDENT.

EXHIBIT P4. TRUE COPY OF THE LETTER GIVEN BY THE 2ND RESPONDENT TO THE 5TH RESPONDENT DATED 25.06.2014.

EXHIBIT P5. TRUE COPY OF THE LETTER GIVEN BY THE 5TH RESPONDENT TO THE 2ND RESPONDENT DATED 01.07.2014.

EXHIBIT P6. TRUE COPY OF THE LETTER GIVEN BY THE PETITIONER TO THE 3RD RESPONDENT WITH COPY TO THE 2ND RESPONDENT DATED 01.07.2014.

EXHIBIT P7. TRUE COPY OF THE NOTICE NO.B2/2480/2014 DATED 02.07.2014 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S) ' EXHIBITS

EXT.R4(1): THE PHOTOCOPY OF THE COMPLAINT DT.27.9.2011 SUBMITTED BY THE 4TH RESPONDENT

EXT.R4(2): -DO- JUDGMENT DT.8.12.2011 IN W.P.NO:26739/11

EXT.R4(3): THE TRUE COPY OF THE COMMUNICATION DT.11.4.2012 ISSUED BY THE 2ND RESPONDENT

EXT.R4(4) THE PHOTOCOPY OF THE JUDGMENT DT.29.5.2012 IN WPNO:12255/12

EXT.R4(5) -DO- OF THE NOTICE DT.19.2.2014 RECEIVED BY THE 4TH RESPONDENT FROM TALUK SURVEYOR

JJ

/TRUE COPY/

P.S.TO JUDGE

K. SURENDRA MOHAN,J.

W.P(C) NO.17314 OF 2014

Dated this the 5th February, 2015.

JUDGMENT

This writ petition is filed by the petitioner who is the owner of an extent of 2.5 cents of land and a building therein which was purchased on 1.9.1997. According to the petitioner he has not made any additions to the existing building. While so the fourth respondent filed a writ petition before this Court alleging that the fifth respondent had encroached upon his property and made a construction therein. The said writ petition was disposed of by Ext.P2 judgment directing the third respondent to conduct a measurement of the petitioner's property and to remove the encroachment if any. According to the petitioner, without conducting a measurement, the third respondent prepared a sketch showing that the petitioner had encroached upon a

portion of the property of the fifth respondent. Thereafter, a notice is alleged to have been issued notifying him that the offending structure would be demolished on 9.7.2014. The petitioner therefore sought appropriate orders in the matter. This writ petition was admitted on 8.7.2014 and an interim order against demolition was granted. The said order is in force.

2. In the meantime, the petitioner in WPC 8061/2013 filed contempt case 395/2014 seeking initiation of action in contempt for non-compliance with the direction of this Court. Both the cases are being posted together.

3. In view of the contention of the counsel for the petitioner that no measurement with notice to the petitioner was conducted by the third respondent, as per order dated 1.10.2014 a fresh measurement was directed to be conducted with notice to the petitioner also. The report of such measurement along with the sketch was also directed to be filed in court. Accordingly a measurement was conducted and

a report as well as the sketch have been filed in this writ petition along with an affidavit dated 7.1.2015. Annexures A1 and A2 are respectively the report and sketch. The petitioner has filed a reply affidavit in the matter.

4. When the matter is taken up today for hearing, Senior Counsel Dr.K.P.Satheesan who appears for the petitioner submits that since encroachment has been found in Annexures A1 and A2, the petitioner would remove the encroachment and surrender the encroached portion to the fourth respondent. The petitioner only needs some time to do that.

In view of the above submission, without going into the merits of the contentions raised by the parties, this writ petition is disposed of recording the submission of the learned Senior Counsel and directing the petitioner to remove the encroachment and to put the fourth respondent in possession of the encroached portion, in accordance with Annexure A2 sketch, as expeditiously as possible and at any rate within a

period of one month of the date of receipt of a copy of this judgment. The third respondent shall ensure that the above direction is complied with within the time stipulated. In the event of failure on the part of the petitioner to comply with the above direction, the first respondent shall be at liberty to implement Ext.P7 in accordance with law.

Sd/–
K. SURENDRA MOHAN
Judge

jj

/True copy/

