

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(C).No. 17149 of 2015 (P)

PETITIONER:

SONIE JOSEPH, AGED 54 YEARS,
S/O.P.X.JOSEPH, RESIDING AT 28/2772 A, POYONIL,
PANAGARAPPILLY P.O., ELAMKULAM, KADAVANTHRA,
ERNAKULAM, REPRESENTED BY POWER OF ATTORNEY HOLDER
RAMESAN P.N., S/O.NANU PA, AGED 55 YEARS,
RESIDING AT SIVASHAKTHI, GANDHI NAGAR, KURIKAD P.O.,
THIRUVANKULAM, ERNAKULAM

BY ADVS.SRI.R.SANJITH
SMT.C.S.SINDHU KRISHNAH

RESPONDENTS:

1. REVENUE DIVISIONAL OFFICER,
FORT COCHIN, ERNAKULAM.
2. VILLAGE OFFICER
ELAMKULAM VILLAGE, KANAYANNOOR TALUK, ERNAKULAM
682016.

ADDL. R3 IMPEADED VIDE SIDE LEAF.

Addl.R3 IMPEADED RDS REALTIES LTD.,
SHIHAB THANGAL ROAD, PANAMPILLY NAGAR,
KOCHI - 682 036.
REPRESENTED BY ITS MANAGING DIRECTOR,
JOHN K.MANAVALAN.

ADDL.R3 IS IMPEADED AS PER ORDER DATED 19.06.2015 IN IA
8137/15.

ADDL.3 BY ADV. SRI.S.SREEKUMAR (SR.)
ADDL.R3 BY ADV. SRI.P.MARTIN JOSE
ADDL.R3 BY ADV. SRI.THOMAS P.KURUVILLA
ADDL.R3 BY ADV. SRI.P.PRIJITH
ADDL.R3 BY ADV. SRI.MANJUNATH MENON
R1 BY SR. GOVERNMENT PLEADER, SRI. J.J. MICHAIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 17149 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS :

EXHBIT P1: COPY OF THE COMPLAINANT DATED 04.02.2015.

EXHBIT P2: COPY OF THE RELEVANT EXTRACTS OF BASIC TAX REGISTER.

EXHBIT P3: COPY OF THE FORWARDING NOTE BEARING NO.Q NO.201 DATED
05.02.2015.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No. 17149 of 2015

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Dated this the 26th day of October, 2015

J U D G M E N T

This Writ Petition is filed, being aggrieved by the arbitrary and illegal inaction on the part of the 1st respondent, in not considering the complaint preferred by the petitioner on 04.02.2015 requesting the 1st respondent to pass necessary orders against the 3rd respondent, who is making unauthorised and illegal construction in the property, which is laying adjacent to petitioner's property.

2. The case of the petitioner is that he is a non-resident Indian, working abroad and during his last visit, he noticed that in the southern property, adjacent to his property, the 3rd respondent is constructing a residential complex. The constructive activities carried on by the 3rd respondent are in utter disregard of the statutory mandates

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and provisions causing serious prejudice to the rights of the petitioner to enjoy his property. In the course of construction, the builder has indiscriminately filled up the land with soil up to a height of 12 feet. Aggrieved by the illegal activities of the 3rd respondent, the petitioner had preferred Ext.P1 complaint before the 1st respondent. The 1st respondent has not taken any action till the filing of this Writ Petition. Hence, the petitioner sought for a direction to the 1st respondent to dispose Ext.P1 complaint, after affording an opportunity of being heard to the petitioner.

2. Heard; the learned counsel for the petitioner and the learned counsel for the respondents.

3. The 1st respondent has filed a counter statement, stating that after receiving the petition, a report was called for from the 2nd respondent and the 2nd respondent has reported that this land was converted years ago and constructive works of the alleged building are nearly

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completed; a boundary wall was also built up enclosing the residential complex. The 2nd respondent also reported that no complaints are received in the Village Office in this matter till date and hence, stop memo was not given against the alleged construction of building. After receiving the report of the 2nd respondent, the 1st respondent posted the case for hearing on 27.05.2015 and the same was adjourned due to some unavoidable circumstances. It is also assured that after conducting a hearing of the concerned parties, the petition will be disposed of as per law within a short period.

4. In view of the statement filed by the 1st respondent, I am of the opinion that this Writ Petition can be disposed of by directing the 1st respondent to pass orders within a specified time, after affording an opportunity being heard to both parties. Consequently, the 1st respondent is directed to pass orders on Ext.P1 complaint, filed by the petitioner within a period of one month from the date of

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production of this judgment, after affording an opportunity of being heard to the petitioner and the 3rd respondent.

The Writ Petition is disposed of accordingly.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge