

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(C).No. 17589 of 2015 (W)

PETITIONER :

**NALINAKSHAN
AGED 65 YEARS, S/O. PAPPU
"AKSHAYA", PUTHANKULAM P.O.,
POOTHAKKULAM VILLAGE
KOLLAM TALUK, KOLLAM DISTRICT.**

BY ADV. SRI.K.VANIL KUMAR

RESPONDENT(S) :

- 1. THE GOVERNMENT SECRETARY
DEPARTMENT OF LOCAL SELF GOVERNMENT INSTITUTIONS
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE DEPUTY DIRECTOR OF PANCHAYATH
OFFICE OF DEPUTY DIRECTOR OF PANCHAYATH, KOLLAM.**
- 3. THE DISTRICT OFFICER/EXECUTIVE ENGINEER
GROUND WATER DEPARTMENT
DISTRICT OFFICE, KOLLAM DISTRICT
PIN – 691 009.**
- 4. POOTHAKKULAM GRMA PANCHAYATH
POOTHAKKULAM P.O.,
KOLLAM TALUK, KOLLAM DISTRICT
PIN – 691 302
REPRESENTED BY ITS SECRETARY.**
- 5. THE SECRETARY
POOTHAKKULAM GRAMA PANCHAYATH
POOTHAKKULAM P.O.,
KOLLAM TALUK, KOLLAM DISTRICT
PIN – 691 302.**

R1 TO R3 BY GOVT. PLEADER SRI. G. GOPAKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE TAX RECEIPT NO. 1767183 DATED 22.7.2014 OF THE VILLAGE OFFICE, POOTHAKKULAM.
- EXT.P2 COPY OF THE FEASIBILITY CERTIFICATE DATED 11.3.2015 ISSUED BY THE 3RD RESPONDENT.
- EXT.P3 COPY OF THE NOTICE DATED 16.3.2015 ISSUED BY THE 5TH RESPONDENT.
- EXT.P4 COPY OF THE APPLICATION DATED 19.3.2015 BEFORE THE 5TH RESPONDENT.
- EXT.P5 COPY OF THE NOTICE DATED 18.4.2015 ISSUED BY THE 5TH RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.17589 of 2015

Dated this the 19th day of June, 2015.

JUDGMENT

Aggrieved by Ext.P5 notice, by which the petitioner's application for a grant of permit to construct a tub-well was rejected, the petitioner has come up before this Court.

2. The petitioner is doing agriculture in his 10.90 Ares of property in Re-Sy.No.518/6 and due to shortage of water, the petitioner decided to construct a tube-well and obtained Ext.P2 feasibility certificate from the third respondent. The petitioner alleges that initially the 5th respondent told that, it is not necessary to get permit from the panchayat to construct a tube-well. Hence the petitioner started the work. However, due to political pressure, they issued Ext.P3 stop memo. Hence the petitioner submitted Ext.P4 application before the fifth respondent seeking permission to construct tube-well in his property. But it was not considered by the fourth respondent and was rejected and resultantly the fifth

respondent issued Ext.P5 order.

3. Though notice has been served on the third respondent, he has not turned up.

4. It appears from the record that the petitioner submitted Ext.P4 application in a prescribed form along with title deed of the property, plan, tax receipt, possession certificate and copy of Ext.P2 feasibility certificate before the fifth respondent for seeking permit to construct a tub-well in his property. However, by Ext.P5 order, the fifth respondent rejected the same. The petitioner points out that digging of tub-well or extracting water through tub-well from underground will never affect the source of water in the neighbouring wells. It is crucial to note that the third respondent has granted clearance as per Ext.P2 subject to certain conditions. Therefore, there cannot be any harm in granting permit to the petitioner to construct a tub-well subject to the conditions made mention of in Ext.P2.

Therefore, the writ petition is disposed of directing the

respondent panchayat to grant permission subject to the conditions made mention of in Ext.P2. This shall be done within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.