

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 18099 of 2014 (J)

PETITIONER(S):

**P.N. KRISHNANKUTTY
S/O.NARAYANAN, PARAMMEL VEEDU,
KAITHAKKADU KARA,
PATTIMATTAM VILLAGE, PATTIMATTAM P.O.,
ERNAKULAM.**

**BY ADVS.SRI.T.A.UNNIKRISHNAN
SRI.K.S.PRAVEEN**

RESPONDENT(S):

**1. THE KUNNATHUNADU GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, KUMARAPURAM P.O.
ERNAKULAM, PIN-683565.**

**2. SIVANANDAN,
S/O.NARAYANAN, PARAMMEL VEEDU, KAITHAKKADU KARA
PATTIMATTAM VILLAGE, PATTIMATTAM P.O.
ERNAKULAM DISTRICT, PIN-683562.**

**R1 BY ADVS. SRI.S.M.PRASANTH
SRI.BABU T.CHERIYAN**

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

PJ

WP(C).No. 18099 of 2014 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: COPY OF THE COMPLAINT DATED 7/6/2013 SUBMITTED BY THE PETITIONER.

**P2: COPY OF THE COMMUNICATION DATED 31/7/2013 ISSUED BY THE 1ST
RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 18099 of 2014

Dated this the 12th day of February, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Counsel for the respondent Grama Panchayat, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the second respondent, being the brother and neighbour of the petitioner, began constructing a building without valid permit from the first respondent Grama Panchayat. Incidentally, the second respondent, it is alleged, has also trespassed upon a part of petitioner's property. Based on the complaint lodged by the petitioner, the first respondent Grama Panchayat is said to have issued notice to the second respondent calling on him to explain why action should not be taken. According to the petitioner,

after following due process, the Grama Panchayat eventually issued Exhibit P2 stop memo directing the second respondent not to proceed further and to have the construction so far made regularized, if he desires, by filing a proper application. Assailing the in-action of the first respondent Grama Panchayat in enforcing Exhibit P2, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner has contended that it is beyond dispute that the second respondent does not have any valid permit from the first respondent Grama Panchayat. Despite Exhibit P2, the second respondent has neither stopped the construction nor applied for any regularization. Under these circumstances, the respondent Grama Panchayat, contends the learned counsel, ought to have enforced its own order of stop memo.

4. Though notice was sought to be served on the second respondent, it is said to have been returned unclaimed. Consequently, the petitioner filed I.A. No. 1289/2015 and got a declaration from the Court that the service was completed. None appears for the second respondent. The first respondent, having entered

appearance, has not ensured the presence of its counsel today.

5. Be that as it may, in the facts and circumstances, having regard to the submissions made by the learned counsel for the petitioner, this Court, without adverting to the merits of the matter, disposes of the writ petition with a direction to the respondent Grama Panchayat to enforce Exhibit P2 until and unless the petitioner has a valid permit or gets his unauthorized construction duly regularized in accordance with law.

With the above observation, this writ petition is disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-