

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

WP(C).No. 29183 of 2005 (Y)

PETITIONER(S):

- 1. UNION OF INDIA, REPRESENTED BY ITS
GENERAL MANAGER, SOUTHERN RAILWAY, MADRAS,
CHENNAI.**
- 2. ESTATE OFFICER, SOUTHERN RAILWAY,
DIVISIONAL OFFICE, WORKS BRANCH, MADURAI.**
- 3. STATION MASTER, KUNDARA RAILWAY,
STATION, KUNDARA.**

BY ADV. SRI.VARGHESE P.THOMAS, SR.SC,RAILWAYS

RESPONDENT(S):

- 1. KERALA STATE, REPRESENTED BY
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM-1.**
- 2. DISTRICT COLLECTOR, KOLLAM DISTRICT,
KOLLAM COLLECTORATE.**
- 3. TAHSILDAR, REVENUE DEPARTMENT,
KOLLAM TALUK, KOLLAM.**
- 4. SECRETARY, K.S.E.B.,
THIRUVANANTHAPURAM.**
- 5. A.P. SHELVARAJ, S/O. THOMAS,
KIZHAKKEVILA HOUSE, KANJIRAKODE, KUNDARA.**

R1-R3 BY GOVERNMENT PLEADER SRI.SOJAN VARGHESE

R4 BY ADVS. SRI.K.S.ANIL, SC, KSEB

SRI. ASOK M.CHERIYAN, SC, KSEB

R5 BY ADV. SRI.ANCHAL C.VIJAYAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 29183 of 2005 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF REPRESENTATION DTD.1.6.1991 FILED BY 12 PERSONS INCLUDING 5TH RESPONDENT BEFORE THE RAILWAY DIVISIONAL OFFICER (WORKS) MADHURAI.

EXT.P2: TRUE COPY OF SHOW CAUSE NOTICE DTD.5.4.1995 ISSUED TO 5TH RESPONDENT BY ESTATE OFFICER, RAILWAY ADMINISTRATION NO.U/W/274/A1995/KUV.

EXT.P3: TRUE COPY OF PATTANAM NO.LA.6/85 ISSUED TO THE 5TH RESPONDENT BY THE KOLLAM TALUK, TAHSILDAR.

EXT.P4: TRUE COPY OF JUDGMENT DTD.29.8.1998 IN OS.420/95 OF THE ADDITIONAL MUNSIFF'S COURT, KOLLAM.

EXT.P5: TRUE COPY OF JUDGMENT DTD.2.4.2002 IN AS.126/98 OF THE DISTRICT JUDGE, KOLLAM.

EXT.P6: TRUE COPY OF PETITION DTD.7.7.1997 FILED BEFORE THE DISTRICT COLLECTOR, KOLLAM BY THE RAILWAY DIVISIONAL MANAGER.

EXT.P7: TRUE COPY OF APPEAL PETITION DTD.4.3.2004 BEFORE THE DISTRICT COLLECTOR, KOLLAM BY THE RAILWAY ADMINISTRATOR.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 29183 of 2005

Dated this the 4th day of September, 2015

J U D G M E N T

The petitioners allege that from 1910 onwards, an extent of 1.72 ares of property comprised in Sy.No.450 of the Mulavana Village, Kollam Taluk belong to the Railway Administration, which forms part of the railway land very close to Kundara Railway Station. They further allege that several persons including the 5th respondent encroached upon the said railway land. The Railway Administration initiated eviction proceedings and the Estate Officer of the Railway Administration issued Ext.P2 notice against the 5th respondent under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. The 5th respondent, without filing any objection against Ext.P2, filed OS No.420/95 for declaring his title and possession over the property, contending that the disputed land is a 'puramboke' land and he got 'patta'

assigned by the Taluk Tahsildar, Kollam. The said 'patta' is produced as Ext.P3. The Railway Administration contested the suit and averred that the 'patta' is obtained fraudulently. As per Ext.P4 judgment, the suit was dismissed and the petitioners are allowed to proceed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. The 5th respondent filed AS No.126/1998, which was allowed as per Ext.P5, making it clear that the decree would not affect the right of the Railway Administration to get the 5th respondent evicted after getting the 'patta' cancelled under due process of law. Railway Administration filed Exts.P6 and P7 petitions before the District Collector under the Land Assignment Act by way of appeal for setting aside Ext.P3 'patta' obtained fraudulently. The petitioners' grievance is that though they have filed petitions and several reminders, no decision has been taken by the District Collector so far. Hence, this writ petition.

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2. Heard the learned Standing Counsel for the petitioners, the learned Government Pleader and the learned counsel for the party respondent.

3. Today, when the matter came up for hearing, the learned Standing Counsel for the petitioners confined his argument to the limited prayer for a consideration of Exts.P6 & P7 petitions within a time frame.

Therefore, the writ petition is disposed of directing the 2nd respondent to consider and pass orders on Exts.P6 & P7, if the same were not disposed of already, after affording the petitioners and the 5th respondent an opportunity of being heard within a period of three months from the date of receipt of a copy of this judgment de hors Ext.P3.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-