

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 19363 of 2015 (U)

PETITIONER:

V.P JACOB, AGED 66 YEARS
S/O. PORINCHU, 649, VADAKKOODAN HOUSE
KUMARANELLOOR P.O., WADAKKANCHERRY, THRISSUR-680 590.

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

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 011.
2. THE COLLECTOR
AYYANTHOLE, THRISSUR-680 003.
3. PUBLIC WORKS DEPARTMENT
REPRESENTED BY CHIEF ENGINEER (ROADS DIVISION)
THIRUVANANTHAPURAM-695 033.
4. THE ASSISTANT EXECUTIVE ENGINEER
THE PUBLIC WORKS DEPARTMENT, ROADS SUB DIVISION
THALAPILLY, THRISSUR-680 001.
5. ASSISTANT ENGINEER
PWD ROADS SECTION, WADAKKANCHERRY, THRISSUR-680 582.
6. WADAKKANCHERRY GRAMA PANCHAYAT
WADAKKANCHERY P.O., THRISSUR-680 582
REPRESENTED BY ITS SECRETARY.
7. TAHSILDAR
THALAPPILLY TALUK, THRISSUR-680 001.
8. VILLAGE OFFICER
KUMARANELLOOR, THALAPPILLY TALUK, THRISSUR-680 001.

R6 BY ADV. SRI.SANTHOSH P.PODUVAL
R6 BY ADV. SMT.R.RAJITHA
R6 BY ADV. SMT.VINAYA V.NAIR
R BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .No. 19363 of 2015 (U)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE ORDER DTD.19.6.2015 BEING NO.29257/15/B4.

P2 : COPY OF THE MEMORANDUM OF APPEAL UNDER SECTION 16 OF THE LAND
CONSERVANCY ACT.

P3 : COPY OF ATHE RELEVANT EXTRACTS OF THE BASIC TAX REGISTER.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

A. MUHAMED MUSTAQUE, J.

W.P.(C) No. 19363 of 2015

Dated this the 17th day of September, 2015.

JUDGMENT

The petitioner has approached this Court aggrieved by Ext.P1 order of the District Collector, Thrissur.

2. Ext.P1 order was issued under the Land Conservancy Act. This was considered pursuant to the direction of this Court in W.P.(C) No.248 of 2015.

3. The petitioner was threatened with eviction from Government land. The petitioner made an attempt to obtain assignment of the land. It appears that the application is pending before the District Collector.

4. There cannot be now a dispute that the land in question is a Government land. It is noted that the land encroached is situated on the bell mouth of the State highway. It is noted in impugned order that it is required for the expansion of the State highway and it cannot be assigned for the reason that it requires for the development of the road.

5. This Court appointed an Advocate Commissioner to find out nature and lie of the encroached area and the petitioner's other property. The Commissioner has filed a detailed report. He also filed a sketch along with the report.

6. This Court cannot direct the assignment of the land if the land in question is required for the purpose of development of road. However, as it can be seen from the sketch itself that there are buildings surrounding the encroached portions on the west as well as the eastern side of the encroached portion. Therefore, if at all road widening is required, the entire buildings on the west as well as the east have to be demolished.

7. It is submitted by the learned Government Pleader that the entire area on the side of the west as well as the east would be taken for the purpose of road widening.

8. This Court is of the view that in view of the need of the State, the State's decision has to be upheld. In the impugned order, it is stated that the land cannot be assigned

to the petitioner.

Therefore, this Court is of the view that the petitioner need not be evicted from the land till an action is taken against eviction of the buildings on the west as well as the eastern side of the land. The State is free to proceed against the petitioner's land in occupation along with other buildings on the west as well as the east. Therefore, eviction of the petitioner shall only along with the eviction of the building on the western and eastern side of the land after issuing notice to the petitioner.

**Sd/-
A. MUHAMED MUSTAQUE
JUDGE**

Scl.