

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

WP(C).No. 23220 of 2012 (B)

PETITIONER:

MAHRUB HASSAN SAHIB,
(S/O.MAHRUB), VATTAKUDY HOUSE, ELAMPRA
ERAMALLUR VILLAGE, NELLIKIZHY (PO), KOTHAMANGALAM
ERNAKULAM DISTRICT.

BY ADVS.SRI.T.K.MARTHANDAN UNNITHAN
SRI.V.JAYAKUMAR

RESPONDENT(S) :

1. THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695001.

2. THE DISTRICT COLLECTOR
COLLECTORATE, KAKKANAD, ERNAKULAM DISTRICT.

3. THE REVENUE DIVISIONAL OFFICER
MUVATTUPUZHA.

4. MAKKARU
S/O.KOCHU MAHRUB, VATTAKUDI HOUSE, ELAMPRA
ERAMALLUR VILLAGE, NELLIKUZHY (PO), KOTHAMANGALAM
ERNAKULAM DISTRICT-686688.

5. SAINABHA
W/O.MAKKARU, DO. DO.-686688.

6. HASSANGANI
S/O.KOCHU MAHRUB, DO. DO.-686688.

7. JASMIN
W/O.HASSANGANI, DO. DO.-686688.

8. NASSAR
S/O.KOCHU MAHRUB, DO. DO.-686688.

*9. KAYYUMMA
W/O.NASSAR, DO. DO.-686688.(DELETED)

(*R9 is deleted from the party array at the risk of the
petitioner as per Order dt.16.01.2013 in I.A.509/2013)

R4-R8 BY ADV. SRI.A.BALAGOPALAN
R4-R8 BY ADV. SRI.A.RAJAGOPALAN
R4-R8 BY ADV. SRI.M.N.MANMADAN
R4-R8 BY ADV. SRI.M.S.IMTHIYAZ AHAMMED
R1& R3 BY GOVERNMENT PLEADER NOUSHAD THOTTATHIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 23220 of 2012 (B)

A P P E N D I X

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF SALE DEED DT.8.11.2010 OF THE SUB REGISTRY OFFICE, KOTHAMANGALAM.

EXT.P2: TRUE COPY OF COMPLAINT DT.9.7.2011 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR.

EXT.P3: TRUE COPY OF COVERING LETTER DT.15.11.2011 ISSUED BY THE VILLAGE OFFICER.

EXT.P3(a): TRUE COPY OF THE REPORT AND PLAN SUBMITTED BY THE VILLAGE OFFICER ALONG WITH EXT.P3 DT.15.11.2011.

EXT.P4: TRUE COPY OF NOTICE DT.2.12.2011 ISSUED BY THE 3RD RESPONDENT.

EXT.P5: TRUE COPY OF THE PROCEEDINGS IN THE CASE ISSUED TO THE PETITIONER BY THE PUBLIC INFORMATION OFFICER.

EXT.P6: TRUE COPY OF ORDER DATED 7.3.2012 ISSUED BY THE R.D.O.

EXT.P7: TRUE COPY OF APPEAL PETITION DT.2.5.2012 SUBMITTED BY THE PETITIONER.

EXT.P8: TRUE COPY OF COMMUNICATION DT.23.7.12 ISSUED BY THE DISTRICT COLLECTOR.

RESPONDENTS' EXHIBITS

NIL.

/true copy/

P.S to Judge

P.V.ASHA, J.

W.P(c) No.23220 of 2012-B

Dated this the 3rd day of June, 2015

JUDGMENT

The petitioner is aggrieved by the obstruction caused to his pathway at the instance of respondents 4 to 9. It is submitted that he has been using the pathway in question from time immemorial. He had approached the R.D.O with a complaint over the obstruction, which was dismissed as per Ext.P6 finding that, the issue involved is regarding right to pathway as per the title deed for which the petitioner has to approach the civil court. The appeal before the District Collector also was against him in Ext.P8 order. Therein also, it was found that the appropriate remedy for the petitioner is to approach the civil court.

2. I heard the learned counsel appearing on either side. In the circumstances where the petitioner is claiming a pathway, which is seriously disputed by the respondents, the remedy available to the petitioner is to approach the civil court as rightly found by the R.D.O as well as the District Collector.

This Writ Petition is accordingly dismissed with liberty to the petitioner to approach the civil court.

rtr/

Sd/-
(P.V.ASHA, JUDGE)