

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C). No.19743 of 2014 (P)

PETITIONER(S):

**NAMBALA VIJAYAN, AGED 49 YEARS,
S/O. CHATHUKUTTY, PRATHEEKSHA NIVAS, PULLIPARAMBU.P.O.,
CHELAMBRA VIA, MALAPPURAM-673634.**

**BY ADVS.SRI.SAJU.S.A
SMT.MEENA.A.
SRI.VINOD RAVINDRANATH**

RESPONDENT(S):

- 1. CHELEMBARA GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY
CHELAMBARA.P.O., MALAPPURAM-673634.**
- 2. SECRETARY, CHELEMBARA GRAMA PANCHAYATH,
CHELEMBRA.P.O., MALAPPURAM-673634.**

ADDITIONAL RESPONDENTS IMPEADED:

- 3. THE DISTRICT COLLECTOR, MALAPPURAM - 676 506.**
- 4. THE EXECUTIVE ENGINEER,
KERALA PWD ROADS DIVISION, MANJERI,
MALAPPURAM DISTRICT - 676 121.**
- 5. THE LAND ACQUISITION SPECIAL TAHSILDAR,
TIRUR, MALAPPURAM DISTRICT, PIN - 676 101.
(ADDL.R3 TO R5 IMPEADED AS PER ORDER DATED 24.11.2014 IN IA 15958/14.)**

**R1 BY ADV. SRI.V.VSURENDRAN
SRI.P.A.HARISH**

R3 BY ADV. GOVERNMENT PLEADER SHRI NOUSHAD THOTTATHIL

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

APPENDIX

PETITIONER(S)' EXHIBITS:-

- P1. TRUE COPY OF THE PERMIT NO. 48A/12-13 DATED 15-10-2012 ISSUED BY THE 2ND RESPONDENT.**
- P2. TRUE COPY OF THE NOTICE NO. 2145/2013 DATED 30-3-2013.**
- P3. TRUE COPY OF THE SUBMITTED BY THE PETITIONER DATED 11-4-2013.**
- P4. TRUE COPY OF THE ORDER NO. A3 4019/12 DATED 1-2-2014.**
- P5. TRUE COPY OF THE LETTER DATED 8-6-2014 ALONG WITH ANNEXURE.**
- P6. TRUE COPY OF THE LETTER NO. A3-2145/13 DATED 18-6-2014.**
- P7. TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER DDATED 4-7-2014 ALONG WITH ANNEXURE.**
- P8. TRUE COPY OF THE ORDER NO. A3-2145/13 DATED 22-7-2014.**
- P9:- TRUE COPY OF THE POWER OF ATTORNEY DATED 12.09.2014 EXECUTED BY THE PETITIONER.**

RESPONDENT(S)' EXHIBITS:- NIL

KRJ

/True Copy/

P.A to Judge

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.19743 of 2014

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Dated this the 9th day of April, 2015

JUDGMENT

Aggrieved by Ext.P8 notice, the petitioner has come up before this Court.

2. The petitioner, a resident of the respondent panchayat, is in ownership and possession of 4 cents of property in R.S No.155/16 of Chelambra village. He alleges that the property along with an old building originally belonged to one Moideenkutty, Saidalavi and Assainar, S/o. Ahammedkoya. The petitioner further alleges that on 18.9.2001, he along with one Gangadharan purchased the said property. In 2003, the petitioner purchased the share of the said Gangadharan in the property and since then he is the absolute owner in possession of the above said property and the building therein which consists of eleven shop rooms.

3. The petitioner further alleges that he is regularly paying both

property tax and the building tax. Since the old building was in a dilapidated condition, the petitioner decided to reconstruct the building. Hence, he submitted applications for issuance of building permit which was granted by the second respondent as per order dated 15.10.2012.

4. On receipt of Ext.P1 permit, the petitioner was served with Ext.P2 notice stating that his property is to be acquired for widening the road. Hence, he submitted Ext.P3. As there was no further proceeding, he proceeded with the construction. Subsequently, he was issued with Ext.P4 order. He submitted Ext.P5 and thereafter he was served with Ext.P6. On receipt of Ext.P6, he filed Ext.P7 along with the plan showing four boundaries and the present lie of his property. The petitioner proceeded with the construction and on 23.7.2014 he found Ext.P8 notice affixed in his building directing him to stop all further proceedings. It is with this background, the petitioner has approached this Court.

5. When the matter came up for hearing, the learned counsel for the petitioner submitted that Ext.P7 submitted by the petitioner before the Secretary of the respondent panchayat is still pending. In the light of the said submission, this Court is of the view that the writ petition can be disposed of directing the respondent panchayat to consider and pass appropriate orders on Ext.P7.

In the result, the writ petition is disposed of directing the second respondent to consider and pass appropriate orders on Ext.P7 after affording the petitioner and the affected parties, if any, an opportunity of being heard. This exercise shall be completed within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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