

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 20330 of 2015 (M)

PETITIONERS:

1. MOHAMMEDALI, AGED 53 YEARS,
S/O.MOHAMMEDKUTTY, MATTATHODY HOUSE,
VELUPADAM P.O., VARANTHARAPILLY,
TRISSUR DISTRICT - 680 303.
2. MOOSA P.A, AGED 55 YEARS,
S/O.AVARU, PUNERY HOUSE, VELUPADAM P.O., VARANTHARAPILLY,
TRISSUR DISTRICT -680 303.

BY ADVS.SRI.V.K.BEERAN (SR.)
SRI.V.P.REGHURAJ
SRI.V.SHYAM

RESPONDENTS:

1. THE DISTRICT COLLECTOR,
TRISSUR DISTRICT, TRISSUR - 680 001.
2. VARANTHARAPILLY GRAMA PANCHAYATH,
VARANTHARAPPILLY P.O., TRISSUR DISTRICT -680 303
REPRESENTED BY ITS SECRETARY.
3. THE DISTRICT MEDICAL OFFICER,
TRISSUR - 680 596.
4. REHMA JUMA MASJID & MADRASA COMMITTEE,
VELUPADAM P.O.,
TRISSUR DISTRICT - 680 303, REPRESENTED BY ITS PRESIDENT.

R BY SRI. K.A. SANJEETHA, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P-1: THE TRUE COPY OF THE APPLICATION DATED 14.7.2009 OF THE 4TH RESPONDENT.

EXT.P-2: THE TRUE COPY OF THE COVERING DATED 14.7.2009 OF THE 4TH RESPONDENT.

EXT.P-3: THE TRUE COPY OF THE RESOLUTION DATED 27.8.2009 OF THE 2ND RESPONDENT.

EXT.P-4: THE TRUE COPY OF THE FORWARDING LETTER DATED 12.10.2009 OF THE 2ND RESPONDENT.

EXT.P-5: THE TRUE COPY OF THE NO OBJECTION CERTIFICATE DATED 5.4.2010 OF THE DISTRICT MEDICAL OFFICER, THRISSUR.

EXT.P-6: THE TRUE COPY OF THE REPORT ALONG WITH LOCATION SKETCH DATED 15.12.2010 OF THE VILLAGE OFFICER, VARANTHARAPPALLY.

RESPONDENTS' EXHIBITS : NIL

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.20330 of 2015

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Dated this the 15th day of July, 2015

JUDGMENT

The petitioners have approached this Court seeking a direction to the first respondent to pass orders on Ext.P1 as contemplated under the Kerala Panchayat Raj (Burial and Burning Grounds) Rules, 1998 and other reliefs.

2. The petitioners are the members of the 4th respondent Juma-ath Masjid at Velupada which was formed around 23 years back. There are around 300 poor Muslim families residing at Velupadam.. Since there is no burial ground, the 4th respondent committee on 29.11.2008 purchased 38 cents comprised in Sy. No.955/2 under document No.4440/08 of SRO, Kodaly and dedicated to Wakf.

3. The fourth respondent submitted Ext.P1 application along with Ext.P2 covering letter dated 14.7.2009 before the second respondent for granting licence. The second respondent passed

Ext.P3 resolution on 27.8.2009 and forwarded the same to the first respondent along with Ext.P3 covering letter for approval and sanction in terms of the provision of the Kerala Panchayat Raj (Burial and Burning Grounds) Rules, 1998.

4. In the meanwhile, as required by the second respondent, the third respondent after inspecting the property and issued Ext.P5 no objection letter dated 5.4.2010 to the first respondent. It is stated that the first respondent got the matter enquired into through the Tahsildar, Mukundapuram and as directed by the Tahsildar, the Village Officer, Varantharappally inspected the property and submitted Ext.P6 report and location sketch dated 15.12.2010 to the Tahsildar who in turn forwarded the same to the first respondent.

5. It is alleged that the first respondent has not passed any orders on Ext.P1 applications so far even after conducting the enquiry. It is submitted that the inaction on the part of the first respondent in Ext.P1 is an abdication of his duty. The petitioner

alleges that the fourth respondent is not pursuing the matter properly and, therefore, the residents of Velupadam area who are members of the fourth respondent is much aggrieved.

6. The petitioners point out that the first respondent is bound to pass orders on Ext.P1 in accordance with law at the earliest otherwise the Muslim population attached to the fourth respondent would not be able to bury dead bodies anywhere, which may result in law and order problems. It is with this background, the petitioners have approached this Court.

7. I have heard the learned Senior Counsel for the petitioners and the learned Senior Government Pleader in the matter.

As the learned Senior Counsel for the petitioners has confined his argument to the limited prayer for a direction to the respondents to consider Ext.P1 which is now pending before the first respondent, the writ petition is disposed of directing the first respondent to consider and pass formal orders on Ext.P1 after

affording the petitioner and the fourth respondent an opportunity of being heard. This shall be done within a period of three weeks from the date of receipt of a copy of this judgment.

To facilitate early action, it shall be open to the petitioners to produce a copy of this judgment as well as a copy of the writ petition before the respondent concerned at the earliest.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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/true copy/

P.A to Judge