

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 35006 of 2004 (P)

PETITIONER:

**MARTHA, AGED 71, W/O.LATE ANTHONY,
RESIDING AT KANANAYKKAL, KECHERI P.O.,
ERANELLOOR VILLAGE, TRICHUR, PIN - 680 501.**

**BY ADVS. SRI. A.V. XAVIER
SRI. JOLLY JOHN
SRI. BENOY K.KADAVAN**

RESPONDENT(S):

- 1. STATE OF KERALA,
REP. BY THE SECRETARY TO REVENUE DEPARTMENT,
SECRETARIAT, TRIVANDRUM.**
- 2. DISTRICT COLLECTOR, CIVIL STATION,
TRICHUR.**
- 3. TAHSILDAR, THALAPPILLY TALUK,
TRICHUR DISTRICT.**
- 4. THE VILLAGE OFFICER,
ERANELLOOR VILLAGE, TRICHUR, PIN - 680 501.**
- 5. SUPERINTENDENT OF SURVEY AND LAND RECORDS,
TRICHUR.**
- 6. CHOONDAL GRAMA PANCHAYATH,
REP. BY THE SECRETARY, KECHERI P.O.
ERANELLOOR VILLAGE, TRICHUR, PIN-680 501.**
- 7. MRS. PATHUMMA AVARU,
POKKAKKILLATHU HOUSE, NEAR MUSLIM MOSQUE,
TRICHUR KUNNAMKULAM ROAD, KECHERI P.O.
TRICHUR - 680 501.**
- 8. MR.AVARU, POKKAKKILLATHU HOUSE,
NEAR MUSLIM MOSQUE, TRICHUR KUNNAMKULAM ROAD
KECHERI P.O., TRICHUR-680 501.**

WP(C).No. 35006 of 2004 (P)

* ADDL RESPONDENT R9 IMPEADED

ADDITIONAL RESPONDENT:

9. SAFIYA ABOOBACKER, W/O. ABOOBACKER,
POKKAKKILLATHU HOUSE, P.O. KECHERI,
ERANELLUR VILLAGE, THALAPPILLY TALUK,
TRICHUR DISTRICT.

* ADDL. RESPONDENT 9 IMPEADED AS PER ORDER DATED 07.09.2005 IN I.A. NO.
13265 OF 2005.

R6 BY ADV. SRI. P. RAMAKRISHNAN
R7 & R8 BY ADVS. SRI. P. VIJAYA BHANU
SRI. M. GEORGE THOMAS
ADDL.R9 BY ADV. SRI. K.A. SREEJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P-1: THE TRUE COPY OF THE REGISTERED WILL DATED 07.11.1984 MADE BY THE DECEASED HUSBAND OF THE PETITIONER.

EXT. P-2: THE TRUE COPY OF THE SALE DEED NO. 174 DATED 25.01.1965 BY WHICH THE DECEASED HUSBAND OF THE PETITIONER PURCHASED THE PROPERTY FROM ONE MR. KUNJIPPU.

EXT. P-3: THE TRUE COPY OF THE SALE DEED NO. 1706 DATED 14.09.1964 BY WHICH THE MR. KUNJIPPU PURCHASED THE PROPERTY FROM ONE MR. MUHAMMED.

EXT. P-4: THE DETAILED SKETCH OF THE PROPERTIES OF THE PETITIONER, AND THE 7TH RESPONDENT AS ISSUED BY THE 5TH RESPONDENT.

EXT. P-4(a): THE ENLARGED SKETCH OF THE EXT. P-4

EXT. P-5: A TRUE COPY OF THE WRITTEN COMPLAINT DATED 09.07.2004 MADE BY THE PETITIONERS SON TO THE 6TH RESPONDENT.

EXT. P-6: A TRUE COPY OF THE REPLY DATED 09.08.2004 TO THE EXT. P-5 COMPLAINT SUBMITTED BY THE PETITIONER'S SON.

EXT. P-7: THE TRUE COPY OF THE COMMUNICATION OF THE 6TH RESPONDENT DATED 15.09.2004 TO THE PETITIONER'S SON CONTAINING THE EXTRACT OF THE RESOLUTION NO. 217/2004 DATED 21.08.2004 OF THE 6TH RESPONDENT.

EXT. P-8: THE TRUE COPY OF THE REPRESENTATION DATED 27.11.2004 MADE BY THE PETITIONER 2ND RESPONDENT WITH COPY TO RESPONDENTS 3-5

EXT. P-9: TRUE COPY OF LETTER GIVEN TO THE PETITIONER BY THE 2ND RESPONDENT.

EXT. P-10: TRUE COPY OF COMPLAINT MADE BY PETITIONER BEFORE THE VILLAGE ADALATH ON 03.01.2006.

EXT. P-11: TRUE COPY OF REPLY GIVEN BY THE ADDL. TAHSILDAR TO THE PETITIONER.

EXT. P-12: TRUE COPY OF NOTICE SENT BY 6TH RESPONDENT TO THE 7TH RESPONDENT.

EXT. P-13: TRUE COPY OF NOTICE SENT BY 6TH RESPONDENT TO THE 7TH RESPONDENT.

EXT. P-14: TRUE PHOTOGRAPH.

EXT. P-15: TRUE COPY OF INSPECTION REPORT AND SKETCH PREPARED BY THE DISTRICT HEAD SURVEYOR, COLLECTORATE, THRISSUR DATED 27.12.2005.

WP(C).No. 35006 of 2004 (P)

RESPONDENT(S)' EXHIBITS

ANNEXURE I: TRUE COPY OF LETTER DATED 26.06.2006 ISSUED BY THE DISTRICT COLLECTOR, THRISSUR.

ANNEXURE II: TRUE COPY OF NOTICE DATED 25.09.2006 ISSUED BY THE PANCHAYATH.

EXHIBIT R9(a): TRUE COPY OF PLAINT IN O.S.100/05.

EXHIBIT R9(b): WRITTEN STATEMENT FILED BY PETITIONER HEREIN IN O.S.100/05.

EXHIBIT R9(c): TRUE COPY OF COMMISSION REPORT.

//TRUE COPY//

P.A. TO JUDGE

WW

ANIL K. NARENDRA, J.

W.P.(C) No.35006 of 2004

Dated this the 13th day of July, 2015

JUDGMENT

The petitioner has filed this writ petition seeking a writ of mandamus commanding the 5th respondent to measure, fix and demarcate the purambokku pathway in Part 8 of field 215 of Eranelloor Village, Thalappay Taluk. Among other reliefs, the petitioner has also sought a writ of mandamus commanding respondents 1 to 6 to take appropriate steps to evict the 7th and 8th respondents and their men and agents from the land encroached by them in the aforesaid pathway.

2. On 06.07.2015, the case was adjourned after a week at the request of the learned counsel for respondents 7 and 8.

3. Today, when the case was taken up for further consideration, none appears for the petitioner.

4. On 02.12.2004, this Court passed the following order:

"The 2nd respondent shall cause an inspection of the site and find out whether respondents 7 and 8 are encroaching into Puramboke land and making any construction, within two weeks from the date of production of a copy of this order. If the said allegation is

found correct, the said respondent shall take appropriate action in accordance with law, to prohibit the construction in the Puramboke land."

5. In the statement filed by the 6th respondent, it has been stated as follows:

"2. Pursuant to an interim order issued by this Honourable Court, the District Head Surveyor, Thrissur had as per report dated 22.12.2005 stated that the petitioner and respondents 7 and 8 had encroached upon puramboke land. Thereafter, the District Collector, Thrissur had issued instructions on 26.06.2006 to take appropriate action in accordance with the report after verifying the status of O.S.No.100/05 pending in connection with the issue. A true copy of the above said letter dated 26.06.2006 issued by the District Collector, Thrissur is produced herewith as Annexure - I.

3. The Original Suit above referred to is pending even now. However, since there are no interim orders in the matter, the Panchayath had issued separate notices to the petitioner, as well as respondents 7 and 8, asking them to vacate themselves from the encroached pathway. A true copy of the above said notice dated 25.09.2006 is produced herewith and marked as Annexure- II."

6. Based on the aforesaid statement filed by the 6th respondent, this Court by order dated 01.11.2006, directed the 6th respondent Grama Panchayath to complete the proceedings

initiated against respondents 7 and 8 to its logical conclusion as per law, within one month from the date of that order.

Since there is no representation for the petitioner, this writ petition is closed, without prejudice to the right of the petitioner to approach the competent among respondents, in case the proceedings initiated against respondents 7 and 8 has not reached to its logical conclusion as per law.

JV

sd/-
ANIL K. NARENDRAN,
JUDGE