

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 22692 of 2014 (J)

PETITIONER(S):

P.H.MUHAMMEDKUTTY, AGED 69 YEARS
S/O.HASSAN RAWTHAR, PUTHUKKOTTU HOUSE
EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK.

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENT(S):

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1. KERALA RURAL WATER SUPPLY AND SANITATION AGENCY
PTC TOWERS, SS KOVIL ROAD, THAMPANOR
THIRUVANANTHAPURAM 695 001.
 2. REGIONAL PROJECT DIRECTOR,
REGIONAL PROJECT MANAGEMENT UNIT-IDUKKI, KRWSA
MATHA ARCADE, THODUPUZZHA 685 584.
 3. EXECUTIVE ENGINEER
KERALA GROUND WATER DEPARTMENT
KOTTAYAM 686 001.
 4. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY,
WATER RESOURCES DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695 001.
 5. PARATHODE GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY
OFFICE OF THE PARATHODE GRAMA PANCHAYAT
PARATHODE P.O, KOTTAYAM DISTRICT 686 512
 6. PURUSHOTHAMAN,S/O.KUTTAPPAN
ELLIKAMURIYIL, EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK 686 512
 7. SHAMSUDHEEN
S/O.HASSAN, PUTHENVEETIL, EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK 686 512
 8. BIJU
S/O.CHACKO, ELAMTHOTTATHIL
EDAKKUNNAM KARA, EDAKKUNNAM VILLAGE
KANJIRAPPALLY TALUK 686 512.

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9. V.J JOSEPH, VALIYAPURACKAL
EDAKKUNNAM KARA, EDAKKUNNAM VILLAGE
KANJIRAPPALLY TALUK 686 512.
10. CHACKO
S/O.JOSEPH, ELAMTHOTTATHIL, EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK 686 512
11. SAINUDHEEN, S/O.HASSAN, PUTHENVEETIL
EDAKKUNNAM KARA, EDAKKUNNAM VILLAGE
KANJIRAPPALLY TALUK 686 512.
12. CHINNAMMA JOSEPH, W/O.JOSEPH
KADAMPARAMBIL, EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK 686 512.
13. SEYTHALAVI,
S/O.MAITHEEN, PUTHENVEETIL, EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK 686 512
14. ABDUL KHADAR @ KUNJIPPA, PUTHENVEETIL
EDAKKUNNAM KARA, EDAKKUNNAM VILLAGE
KANJIRAPPALLY TALUK 686 512.
15. JAIS,
S/O.JOSE, ANICKAD VEETIL, EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK 686 512
16. ABRAHAM @ KUTTAN, S/O.YOHANNAN
MARUTHONIKAL HOUSE, EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK 686 512.
17. MATHEW
S/O.VARKEY, KARAKKATTUPARAMBIL, EDAKKUNNAM KARA
EDAKKUNNAM VILLAGE, KANJIRAPPALLY TALUK 686 512.
18. MATHEW
S/O.DEVASSIA, PUTHENPURACKAL HOUSE
EDAKKUNNAM KARA, EDAKKUNNAM VILLAGE
KANJIRAPPALLY TALUK 686 512.

R5 BY ADV. SRI.TITUS MANI
R5 BY ADV. SRI.BINNY THOMAS
R5 BY ADV. SRI.P.A.JACOB
R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'(S) EXHIBITS :

EXHIBIT P1 : THE COPY OF THE SALE DEED NO.4160/99 OF THE SUB
REGISTRAR OFFICE, KANJIRAPPALLY.

EXHIBIT P2 : THE COPY OF THE PLAINT IN O.S NO 181 OF 2011 BEFORE THE
MUNSIFF'S COURT, KANJIRAPPALLY.

EXHIBIT P3 : THE COPY OF THE WRITTEN STATEMENT OS NO.181 OF
2011 BEFORE THE MUNSIFF'S COURT, KANJIRAPPALLY FILED BY
THE RESPONDENTS 6 TO 18 HEREIN.

EXHIBIT P4 : THE COPY OF THE JUDGMENT DATED 16-03-2013 IN O.S NO.181
OF 2011 BEFORE THE MUNSIFF'S COURT, KANJIRAPPALLY

EXHIBIT P4(a) : THE COPY OF THE DECREE DATED 16-03-2013 IN O.S NO 181
OF 2011 BEFORE THE MUNSIFF'S COURT, KANJIRAPPALLY ALONG
WITH THE PLAN APPENDED THERETO.

EXHIBIT P5 : THE COPY OF THE A.S.38/2011 BEFORE THE SUB COURT, PALA.

EXHIBIT P6: THE COPY OF THE AGREEMENT DATED 23-2-2013 ENTERED IN
BETWEEN THE 1ST RESPONDENT AND THE 5TH RESPONDENT
PARATHODE GRAMA PANCHAYAT FOR IMPLEMENTING THE
WATER SUPPLY SCHEME.

EXHIBIT P6(a) : THE COPY OF THE PROPOSED PIPELINE ALIGNMENT PLAN FOR
DRAWING THE PIPELINES.

RESPONDENT(S)' EXHIBITS :

Nil

//TRUE COPY//

P.A. TO JUDGE

K.T.SANKARAN , J.

W.P.(C) No.22692 of 2014

Dated this the 28th day of January, 2015

JUDGMENT

The reliefs prayed for in the Writ Petition are the following :

“(a) issue a writ of mandamus or any other appropriate writ, order or direction directing respondents 1 and 2 not to lay or install pipes or any apparatus through the property of the petitioner (particularly shown as item No.2 in Exhibit P4 decree and P4(a) plan) without the consent of the petitioner or without acquiring the said property.

(b) grant such other reliefs which this Honourable Court may deem fit and proper in the interest of justice.”

2. The case of the petitioner is that he is the owner in possession of an extent of 41 Ares and 25 sq.m. of land in R.S.No.55/6 in block No.4 of Edakkunnam Village, as per

Exhibit P1 sale deed. The petitioner instituted O.S.No.181 of 2011 on the file of the court of the Munsiff of Kanjirappally against respondents 6 to 18 for declaration of title, recovery of possession, damages and permanent prohibitory injunction. The trial court granted a decree for declaration of title of plaint schedule item No.2 which is shown as “abcd a” plot in Exhibit C1(a) plan appended to the decree. The other reliefs were not granted. It is stated that challenging the judgment and decree of the trial court in so far as they are against the petitioner, he filed an appeal before the Sub Court, Pala and the appeal is pending.

3. The allegation made in the Writ Petition is that respondents 1 and 2 proposed to lay pipeline cutting through the property of the petitioner for the water supply scheme and that proposal was made at the instance of respondents 6 to

18. It is stated that the petitioner never surrendered any portion of his property for laying pipe line and that respondents 1 and 2 have no authority to encroach upon the property belonging to the petitioner. It is stated that the petitioner approached the fifth respondent Panchayath and submitted a complaint against the proposed action of respondents 1 and 2. The petitioner was informed that the Panchayath has nothing to do with the work.

4. The learned counsel appearing for the fifth respondent Panchayath submitted, on written instructions, that the fifth respondent has no intention to draw or lay any pipe line through the property of the petitioner. To that effect, the fifth respondent has filed a counter affidavit also. The learned Government Pleader submitted that the project is at the behest of the Panchayath and if the Panchayath has no intention to lay pipeline through the property of the petitioner, respondents 1

and 2 would not be interested in doing so. The submissions made by the learned counsel for the fifth respondent and the learned Government Pleader are recorded. No further directions are enquired in view of the submissions made by the learned counsel for the fifth respondent and the learned Government Pleader.

Accordingly, the Writ Petition is closed.

**K.T.SANKARAN
JUDGE**

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