

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).No. 23408 of 2014 (A)

PETITIONER:

KASIM, AGED 36 YEARS,
S/O KUNJAHAMMAD, RESIDING AT NARIKKOTTU, NITTOOR.P.O
KUTTYADI, KOZHIKODE DISTRICT.

BY ADVS.SRI.K.SANEESH KUMAR
SMT.V.B.SANTHINI

RESPONDENT:

1. THE DISTRICT COLLECTOR
CIVIL STATION, KOZHIKODE DISTRICT, PIN-673520.
 2. REVENUE DIVISIONAL OFFICER,
CIVIL STATION, KOZHIKODE DISTRICT, PIN-673520.
 3. SECRETARY,
KUTTYADI GRAMA PANCHAYATH, KUTTAYADI.P.O
KOZHIKODE DISTRICT, PIN-673508.
- * ADDL. R4
NITTOOR MAHAL COMMITTEE
REPRESENTED BY ITS SECRETARY
NITTOOR JUMA MASJID, NARIKKOTTU PARAMBIL, KUTTAYADI
PANCHAYATH, KUTTAYADI VILLAGE, KOZHIKODE DISTRICT.
PIN - 673 508.
(ADDL. R4 IMPEADED AS PER ORDER DTD. 27.3.2015 IN
I.A.NO.4715/15.)
- R3 BY ADV. SRI.VINOD SINGH CHERIYAN
R3 BY ADV. SRI.R.SUDHISH
R1-R2 BY ADV. GOVERNMENT PLEADER SMT.K.A.SANJEETHA
RADDL BY ADV. SRI.P.A.ABDUL JABBAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 COPY OF THE REPRESENTATION DATED 29.11.2011 SUBMITTED BY THE PETITIONER ALONG WITH THE OTHER MEMBERS OF THE LOCALITY.

EXT.P2 COPY OF THE SKETCH DATED 18.06.2013 ISSUED BY THE REVENUE DIVISIONAL OFFICER.

EXT.P3 COPY OF THE JUDGMENT IN WP(C)16391/2013 DATED 1/7/2013 PASSED BY THIS HONOURABLE HIGH COURT.

EXT.P4 COPY OF THE APPLICATION FILED BY THE PETITIONER DATED 17.12.2013.

EXT.P5 COPY OF THE REPLY BY THE 1ST RESPONDENT'S OFFICE TO EXT.P4.

EXT.P6 COPY OF THE APPLICATION FILED BY THE PETITIONER DATED 12.6.2013 BEFORE THE 1ST RESPONDENT.

EXT.P7 COPY OF THE REPLY DATED 3.7.2013 TO EXT.P6 BY THE OFFICE OF THE 1ST RESPONDENT.

EXT.P8 COPY OF THE REPRESENTATION DATED 21.4.2014 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P9 COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT DATED 21.04.2014.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.23408 of 2014

Dated this the 6th day of August, 2015.

JUDGMENT

The petitioner is a resident of the Kuttyadi Village, who resides along with his family, near to Jum-ath Mosque which exists within the local limits of Kuttiyadi Grama Panchayath for more than 30 years. The petitioner alleges that there is a cemetery belonging and attached to the property of the Juma-ath Mosque and dead bodies of the locality are being buried in the said cemetery. This was being done for more than so many years. However, recently it is brought to the notice of the petitioner that the said cemetery is being enlarged and now it has reached upto the boundary of residential property of the petitioner. There are other residences also in the vicinity of the cemetery. He further alleges that the people who object to the aforesaid illegal activity had been put to silence due to the influence of the mosque committee. The petitioner further alleges that this Court passed Ext.P3 judgment to consider the

issue by the first respondent, however, the same has not been done. The issue was delegated to sub collector which according to the petitioner is against the spirit of Ext.P3 judgment dated 1.7.2013. Thereafter, petitioner obtained Ext.P7 information where the first respondent stated that the said burial ground is being conducted without licence. The petitioner again submitted Ext.P8 representation on 21.4.2014 along with necessary documents and requested the first respondent (District Collector) to conduct an enquiry on issue. The petitioner apprehends that unless and until there is direction by this Court, the first respondent would deviate from his action as he had already done which is evident from Ext.P5. It is with this background, the petitioner has come up before this Court.

3. I have heard the learned counsel for the petitioner, the learned Senior Government Pleader, the learned standing counsel for the third respondent panchayath and the learned additional fourth respondent in the matter.

As the learned counsel for the petitioner confined his argument to the limited prayer for a direction to the first respondent to consider Ext.P8 representation within a time frame, the writ petition is disposed of directing the first respondent to consider and pass orders on Ext.P8, after affording the petitioner and the affected parties including the respondent panchayath and the fourth respondent, an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.