

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 27808 of 2009 (U)

PETITIONER(S):

VIBEESH C.T, S/O.C.T.VELAYUDHAN,
'VINEESH' HOUSE, P.H.E.D.ROAD, ERANHIPALAM,
CIVIL STATION P.O., KOZHIKODE-20.

BY ADVS.SRI.P.V.KUNHIKRISHNAN
SMT.K.S.JAYASUDHA

RESPONDENT(S):

1. KANTHAPURAM A.P.ABOOBACKER MUSLIYAR,
S/O.AHAMMED HAJI, KARANTHUR P.O, KUNNAMANGALAM AMSOM
KARANTHUR DESOM, KOZHIKODE DISTRICT, GENERAL SECRETARY,
MARKAZZU SSAQUAFATHI SUNNIYA, KARANTHUR P.O.
KUNNAMANGALAM AMSOM, KARANTHUR DESOM, KOZHIKODE DISTRICT &
SECRETARY, SAMASTHA KERALA SUNNI YUVAJANA SANGHAM, MARKAZ,
I.G.ROAD, MAVOOR, KOZHIKODE.
2. REVENUE DIVISIONAL OFFICER, KOZHIKODE.
3. DISTRICT COLLECTOR, KOZHIKODE.
4. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT,
THIRUVANANTHAPURAM.
5. CIRCLE INSPECTOR OF POLICE,
NADAKKAVU POLICE STATION, KOZHIKODE.
6. SUB INSPECTOR OF POLICE,
NADAKKAVU POLICE STATION, KOZHIKODE.

R1 BY ADVS. SRI.M.K.DAMODARAN (SR.)
SRI.P.K.VIJAYAMOHANAN
SRI.GILBERT GEORGE CORREYA
R2-6 BY GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE ORDER NO.M4.3922/2002/D.DIS DATED 6/4/2002 OF THE R3**
- P2: COPY OF THE ORDER NO.M4.7332/02 DATED 23/2/2007 OF THE R3**
- P3: COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 8/6/2007 IN WPC.11049/2007**
- P4: COPY OF THE ORDER NO.I.10.45891/2003 DATED 25/2/2004 OF THE R3**
- P5: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE R2**
- P6: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE R3.**

RESPONDENTS' EXHIBITS

- R1(A): COPY OF ORDER NO.D1-2599/06/D.DIS DATED 20/4/2006 OF THE CHIEF TOWN PLANNER, THIRUVANANTHAPURAM.**

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J

WPC No.27808 of 2009

Dated this the 15th day of October, 2015

JUDGMENT

The petitioner is residing in Vengeri Village of Kozhikode Taluk. The first respondent purchased about 19 acres of land near the house of the petitioner. The area near the house of the petitioner is surrounded by wet land and water logged areas. The petitioner alleges that the first respondent started to reclaim the above wet land in total violation of the provisions of the Kerala Conservation of Paddy Land and Wet Land Act, 2008. Section 11 of the said Act says that on and from the date of commencement of this Act, the wet lands of the State should be maintained as such and there should be a total prohibition on reclamation of such wet land and removal of sand therefrom. When the petitioner obstructed the action of the first respondent, the first respondent came with police force and they informed that this Court as per Ext.P3 judgment allowed reclamation. Ext.P3 judgment

was delivered in 2007 based on Exts.P1 and P2 orders which was passed under the Kerala Land Utilisation Order. At that time, there was no prohibition of reclamation of wet land. Now, in the light of specific provisions in Section 11 of the Act, there is a total prohibition of reclamation of wet land; it is alleged. The petitioner further alleges that though he submitted representations as evident by Exts.P5 and P6 before the second and third respondents, they have not considered the same saying that there is Ext.P3 judgment. In Ext.P3 judgment itself, this Court granted liberty to the District Collector to pass any orders in accordance with law. This Court only says that as long as Exts.P1 and P2 orders are there, nobody can obstruct reclamation of the land. Ext.P3 would not affect the rights of the second and third respondents under the Kerala Conservation of Paddy Land and Wet Land Act, 2008. However, they are not acting saying that there is Ext.P3 judgment. It is with this background the petitioner has come up before this Court.

This court by interim order dated 30.10.2009

ordered *status quo* as on that date. As the learned counsel for the first respondent would submit that the property had already been reclaimed on the strength of the order obtained by him under the Kerala Land Utilization Order, this writ petition is disposed of leaving the matter to the third respondent District Collector who is the authority under the new Act to see whether there is any surviving cause of action.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE