

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 26565 of 2013 (U)

PETITIONER : -

BIJU JOSEPH,
S/O. JOSEPH,
KOCHUVEETIL,
VANDAMATTOM P.O.,
THODUPUZHA, IDUKKI DISTRICT.

BY ADVS.SMT.DAISY A.PHILIPOSE
SRIJAI GEORGE

RESPONDENTS : -

1. KODIKULAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY.
2. MOLLY JOHNSON ,
ARUKALIL HOUSE, VANDAMATTOM P.O.,
THODUPUZHA, IDUKKI DISTRICT.

R1 BY ADV.SRI.MATHEW JOHN (K), SC
R1 BY ADV.SRI.DOMSON J.VATTAKUZH
R2 BY ADV.SRI.M.B.SANDEEP
R2 BY ADV.SMT.R.PRIYA
R2 BY ADV.SRI.V.VISAL AJAYAN
R2 BY ADV.SMT.B.DHANYA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S' EXHIBITS : -

EXHIBIT P1 : PHOTOGRAPHS SHOWING THE LOCATION OF THE BUILDING AND THE UNAUTHORIZED CONSTRUCTION.

EXHIBIT P2 : COPY OF THE REPORT DATED.6.8.2007 SUBMITTED BY THE VILLAGE OFFICER, KODIKULAM.

EXHIBIT P3 : COPY OF THE REPORT DATED.11.8.2008 SUBMITTED BY THE TAHSILDAR.

EXHIBIT P4 : COPY OF THE COMPLAINT DATED.13.10.2008.

EXHIBIT P5 : COPY OF THE REPORT DATED.7.7.2009 SUBMITTED BY THE DEPUTY DIRECTOR OF PANCHAYATH BEFORE THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

EXHIBIT P6 : COPY OF THE ORDER IN OP NO.1509/2008 DATED.10.7.2009, PASSED BY THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

EXHIBIT P7 : COPY OF THE ORDER IN OP NO.1509/2008 DATED.7.8.2009, PASSED BY THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

EXHIBIT P8 : COPY OF THE LETTER DATED.25.5.2009, ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P9 : COPY OF THE COMPLAINT DATED.7.8.2009, WHICH WAS NUMBERED AS OP NO.343/2009 ON THE FILES OF THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

EXHIBIT P10: COPY OF THE JUDGMENT IN WPC NO.27544/2009 DATED.1.10.2009.

EXHIBIT P11: COPY OF THE ORDER IN OP NO.343/2009 DATED.23.10.2009, PASSED BY THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

EXHIBIT P12: COPY OF THE LETTER DATED.4.11.2009, ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P13: COPY OF THE JUDGMENT IN WPC NO.32178/2009 DTD.6.8.2012.

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EXHIBIT P14: COPY OF THE NOTICE AND THE ORDER DATED.28.11.2012, ISSUED
BY THE 1ST RESPONDENT.

EXHIBIT P15: COPY OF THE ORDER DATED.12.12.2012, ISSUED BY THE 1ST
RESPONDENT.

EXHIBIT P16: COPY OF THE ORDER DATED.13.9.2013, ISSUED BY THE TRIBUNAL
FOR LOCAL SELF GOVERNMENT INSTITUTIONS,
THIRUVANANTHAPURAM IN APPEAL NO.33/2013.

EXHIBIT P17: COPY OF THE LOCATION SKETCH PREPARED BY THE ASSISTANT
ENGINEER OF THE PANCHAYATH DATED 1.7.2009.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 26565 of 2013

Dated this the 05th day of March, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the first respondent, as well as the learned counsel for the second respondent, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, on 12.12.2012, the first respondent Grama Panchayat issued a final order directing the second respondent to demolish what is said to be unauthorized construction put up by him and also to provide a drainage pipe at the edge of the road, so as to prevent the flow of water into the compound of the petitioner.

3. As the record reveals, assailing the said directive of the first respondent, the second respondent filed Appeal No. 33/2013 before the Tribunal for Local Self Government Institutions, Thiruvananthapuram, which on 13.09.2013

dismissed the said appeal through Exhibit P16 order. At any rate, the learned Tribunal had directed the second respondent to apply for regularization of the unauthorized construction. The petitioner is aggrieved to the extent of the observation made by the learned Tribunal in Exhibit P16 that the second respondent could apply for regularization.

4. The learned counsel for the petitioner has strenuously contended that there ought not to have been any direction by the learned Tribunal that the second respondent could have her structures regularized, once it was found that they had been put up illegally.

5. The learned counsel for the second respondent has submitted that in compliance with the order issued by the first respondent on 12.12.2012, as has been affirmed in Exhibit P16 order by the learned Tribunal, the second respondent has removed the portion of unauthorized construction.

6. The learned counsel for the first respondent Grama Panchayat has, however, submitted that the Grama Panchayat is willing to inspect the property of the second respondent and ensure that she has not deviated from the

sanctioned plan and that no more illegal structures are in existence.

7. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner, the learned counsel for the respondent Grama Panchayat and the learned counsel for the second respondent, this Court disposes of the writ petition with a direction to the respondent Grama Panchayat to subject the second respondent's property to physical inspection, after putting the petitioner and the second respondent on notice regarding the physical inspection of the property, and ensure that no illegal structures are in existence. Needless to observe that the respondent Grama Panchayat shall complete the entire process as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

With the above observation, this writ petition is disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-