

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 24868 of 2015 (G)

PETITIONER:

**UMESH KUMAR K.S, S/O.K.SREEDHARAN,
AGED 37 YEARS, SARANAM,
PERUMPILAVU POST, THRISSUR DISTRICT,
REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER C.H.RAJAN, S/O.NANU, AGED 64 YEARS,
"SAI SRUTHI", NEAR KEERTHI THEATRE,
VATAKARA, KOZHIKODE DISTRICT, PIN-673 101.**

**BY ADVS.SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, THRISSUR - 680 001.**
- 2. THE SUB COLLECTOR/SUB DIVISIONAL MAGISTRATE,
THRISSUR-680 001.**
- 3. THE LOCAL LEVEL MONITORING COMMITTEE,
ELEVALLY GRAMA PANCHAYATH,
REPRESENTED BY ITS CONVENOR,
AGRICULTURAL OFFICER, KRISHI BHAVAN, ELAVALLY,
CHITTATUKARA POST, THRISSUR-680 511.**
- 4. VILLAGE OFFICER,
ELAVALLY BRAHMAKULAM GROUP VILLAGE,
ELAVALLY, THRISSUR DISTRICT, PIN-680 511.**

BY SPECIAL GOVERNMENT PLEADER SRI.P.K.SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE COPY OF SALE DEED DATED 01/06/2011 REGISTERED AS DOCUMENT NO.1325/2011 OF MULLASSERY SRO.
- EXT.P2: TRUE COPY OF SURRENDER DEED DATED 1/11/2012 REGISTERED AS DOCUMENT NO.2753/2012 OF MULLASSERY SRO.
- EXT.P3: PHOTOGRAPHS (3NOS.) OF THE PROPERTY OF THE PETITIONER.
- EXT.P4: TRUE COPY OF ROUGH SKETCH OF THE PROPERTY OF THE PETITIONER.
- EXT.P5: TRUE COPY OF APPLICATION DATED 2.8.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P6: TRUE COPY OF ORDER NO.B2-12400/14 DATED 20.8.2014 ISSUED BY THE 2ND RESPONDENT.
- EXT.P7: TRUE COPY OF REPORT DATED 5.8.2014 ISSUED BY THE 3RD RESPONDENT.
- EXT.P8: TRUE COPY OF REPORT DATED 7.8.2014 ISSUED BY THE 4TH RESPONDENT.
- EXT.P9: TRUE COPY OF APPLICATION DATED 24.10.2014 SUBMITTED BY THE PETITIONER BEFORE THE TAHSILDAR, CHAVAKKAD TALUK.
- EXT.P10: TRUE COPY OF THE REPORT SUBMITTED BEFORE THE 2ND RESPONDENT AND THE REPORT OF THE LOCAL LEVEL MONITORING COMMITTEE DATED 12.1.2015.
- EXT.P11: TRUE COPY OF APPLICATION DATED 12.1.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P12: TRUE COPY OF ORDER NO.B2-12400/14 DATED 27.1.2015 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.24868 of 2015

Dated this the 6th day of November, 2015

JUDGMENT

The petitioner has undertaken a construction of a compound wall in Re-survey No.210/1 of Elavalli Village in Chavakkad Taluk pursuant to the permission granted by the Sub Collector, Thrissur. The petitioner approached the second respondent by Ext.P5 application. This was granted as per Ext.P6. Admittedly, this property is not included in the draft data bank. In Ext.P6, three conditions have been imposed:

- i. The petitioner shall not divert flow of water channel.
- ii. Permission shall be obtained from the neighbouring owners.
- iii. The petitioner shall not obstruct bringing tractors and other equipments related to agricultural activities.

2. The petitioner has been given permission to put barbed wire. Thereafter, the petitioner approached the Revenue Divisional Officer again stating that the property in which he has

proposed to undertake the construction in Re-survey No.210/1 of Elavalli Village and pointed out that an inspection leading to Ext.P6 order was in respect of another property and the inspection shall be conducted in respect of the property situated in Re-survey No.210/1 of Elavalli Village. The Local Level Monitoring Committee as per Ext.P10 made certain report and also imposed certain conditions. While imposing the condition, the petitioner has been directed to cultivate certain food crops. The petitioner again approached the Revenue Divisional Officer to reconsider Ext.P6 in the light of the report of the Local Level Monitoring Committee. This has been rejected as per Ext.P12.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader.

This Court is of the view that a permission can be granted to the petitioner to protect his property in Re-survey No.210/1 of Elavalli Village in the light of Ext.P10 report of the Local Level Monitoring Committee. Therefore, the petitioner can protect his property on a supervision and control of the Local Level Monitoring Committee. Essentially, the conditions have been imposed to

protect the neighbouring property and not to interfere with the petitioner's property. However, this Court is of the view that condition No.2 in Ext.P10 of the Local Level Monitoring Committee is unwarranted. The petitioner is free to utilize the land in accordance with law as the Local Level Monitoring Committee cannot direct the petitioner to cultivate any foodcrops other than paddy field. Therefore, condition No.2 in Ext.P10 is set aside. The petitioner shall protect his property in the light of Ext.P10 on the supervision of the Local Level Monitoring Committee. Appropriate assistance shall be given by the Local Level Monitoring Committee in the light of the above directions within a period of two months from the date of receipt of a copy of this judgment. Needless to say that condition No.2 is set aside and the Local Level Monitoring Committee shall accord assistance to the petitioner in the light of condition Nos.1 and 3 in Ext.P10.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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