

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 25101 of 2015 (K)

PETITIONER(S):

**K.G.JOSHY AGED 53 YEARS
S/O.GEORGE, RESIDING AT KANAPPALLY HOUSE
MUPPATHADAM PO, KADUNGALLOOR VILLAGE, ALUVA-683 110**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU**

RESPONDENT(S):

- 1. KADUNGALLOOR GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, MUPPATHADAM PO
ALUVA-683 110.**
- 2. THE SECRETARY
KADUNGALLOOR GRAMA PANCHAYATH, MUPPATHADAM PO
ALUVA-683 110**

**ADDL.R3. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**

(ADDL.R3 IS IMPEADED AS PER ORDER DATED 16.10.2015 IN IA 14712/15.)

**R1-R2 BY ADV. SRI.SAJEEV KUMAR K.GOPAL
R3 BY GOVERNMENT PLEADER SMT. S. HYMA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

P1 : TRUE COPY OF THE OBJECTION RAISED BY THE PETITIONER BEFORE THE SECRETARY OF THE PANCHAYATH DATED 10-8-2015.

P2 : TRUE COPY OF THE CIRCULAR NO.20332/RD3/2011/LSGD DATED 13-7-2011.

P3: TRUE COPY OF THE COMPLAINT PREFERRED BY THE PETITIONER BEFORE THE SECRETARY TO GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM DATED 15.09.2015.

RESPONDENT(S)' EXHIBITS

R1(a): COPY OF THE COMMUNICATION FROM THE ASSISTANT DISTRICT CO-ORDINATOR, AKSHAYA, ERNAKULAM DATED 17.02.2010.

R1(b): COPY OF THE COMMUNICATION FROM THE DISTRICT COLLECTOR to the TAHSILDAR AND DEPUTY DIRECTOR OF PANCHAYATH DATED 06.11.2012.

R1(c): COPY OF THE DECISION OF THE PANCHAYATH COMMITTEE AT ITS MEETING HELD ON 06.08.2014 IN ITEM NO. 1.

R1(d): COPY OF THE COMMUNICATION FROM THE PRESIDENT OF THE PANCHAYATH TO THE MANAGING DIRECTOR, CMRL DATED 10.12.2014.

R1(e): COPY OF THE LETTER FROM THE MANAGING DIRECTOR OF CMRL TO THE PRESIDENT OF THE GRAMA PANCHAYATH DATED 11.02.2015.

//TRUE COPY//

P.A. TO JUDGE

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P.BHAVADASAN, J.

W.P.C. No. 25101 of 2015

Dated this the 12th day of November, 2015

J U D G M E N T

The petitioner is the Ward Member of the Kadungalloor Grama Panchayath. He is aggrieved by the procedure adopted by the Panchayath leading to the construction of an Akshaya Kendra in the land of 40 cents belonging to the Panchayath. The petitioner points out that any construction can be carried out by the Panchayath only with the approval of the Council and after following the necessary procedures. In putting up the structure in question, none of the procedures have been followed and the Panchayath was in the dark as to the manner in which permission was granted to put up the structure. The petitioner also relies on Category (iv) of Ext.P2 and points out that the transaction involved is covered by the said clause and it is in total violation of the provision mentioned therein that the present act has been committed by the Panchayath.

2. Unable to get any remedy from the Panchayath, the petitioner had filed a complaint to the Secretary to Government, Local Self Government Department, a copy of which is produced as Ext.P3.

3. The respondent Panchayat has filed a counter disputing the claim made by the petitioner wherein, it is pointed out that it was following the necessary procedure that the construction was put up and there is nothing wrong with the same.

4. It is not for this Court to resolve the controversy in this proceedings. Since the petitioner has filed Ext.P3 application before the authority concerned, it is only appropriate that authority be directed to look into the said matter and dispose of in accordance with law.

5. The learned Government Pleader pointed out in spite of her best efforts to get instruction from the 3rd respondent, she is unsuccessful as there was no response from the office of the third respondent. One can only say

that it is quite unfortunate and such is the indifference shown by the department to the Court.

6. Whatever that be, this petition is disposed of directing the third respondent to take up and dispose of Ext.P3 application in accordance with law and in the light of what has been stated above with notice to all the parties concerned.

This writ petition is accordingly disposed of.

Sd/-
P.BHAVADASAN
JUDGE

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