

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 25346 of 2015 (P)

PETITIONER:

**SHAJAHAN P.M., AGED 43 YEARS,
S/O. P. .MOIDEENKUNHI, RESIDING AT NOOR MAHAL,
CHEMMANAD, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.MADHU
SMT.C.R.SARADAMANI**

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR
CIVIL STATION, KASARAGOD-671121.**
- 3. THE EXECUTIVE ENGINEER
KERALA STATE TRANSPORT PROJECT, KASARAGOD-671121.**

R BY GOVERNMENT PLEADER SRI. REJI JOSEPH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1- THE TRUE COPY OF THE REPRESENTATION DATED 14-8-2014
SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXHIBIT P2- THE TRUE COPY OF THE REPRESENTATION DATED 29-8-2014
SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXHIBIT P3- THE TRUE COPY OF THE REPLY DATED 26-9-2014 ISSUED BY THE 2ND
RESPONDENT.
- EXHIBIT P4- THE TRUE PHOTOGRAPH OF THE WELL OF THE PETITIONER TAKEN
ON 24-06-2015.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

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SHAJI P. CHALY, J.

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W.P.C. No. 25346 of 2015.

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Dated this the 9th day of November, 2015.

JUDGMENT

This writ petition is filed by the petitioner seeking a direction to the 3rd respondent to take appropriate actions upon the direction issued by the 2nd respondent as per Ext. P3 order dated 26/09/2014.

2. Brief facts for the disposal of the writ petition are as follows:

The petitioner is the owner in possession of 15 cents of landed property comprised in Re-survey No. 107 of Chemmanad Village, Kasaragod. The petitioner is residing in the house situated in the said property. On the western side of the residential house and property of the petitioner is the KSTP road passing from Kanhangad to Kasaragod, which is a road maintained by the 3rd respondent. The 3rd respondent has started the improvement works of the said road through contractors way back in the year 2013 and as a part of the improvement works

large quantity of red earth, granite and other materials are stacked in the neighborhood of the petitioner, thereby preventing the free flow of rain and drain water. Consequent to the said acts of the respondents, the residential compound of the petitioner is getting flooded during rainy season. It is also contended that the waste water flowing through the neighboring public drainage canal has also become blocked because of the widening of the road by the 3rd respondent. Accordingly, it is contended by the petitioner that, innumerable difficulties and nuisances are caused to the petitioner. Confronted with such situation, petitioner has approached the 2nd respondent seeking to ventilate such grievances and by Ext. P3 order 2nd respondent has directed the 3rd respondent to do the necessary action to abate the nuisances caused to the petitioner. The complaint of the petitioner is that, in spite of direction contained under Ext. P3, the 3rd respondent has not initiated any action to ventilate his grievances. It is thus challenging the inaction of the 3rd respondent, this writ petition is filed.

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

4. Having considered the rival submissions and on perusal of the records, I am of the considered opinion that, since Ext. P3 order issued by the District Collector is binding on the 3rd

respondent and since the directions contained therein are not complied by the 3rd respondent, certainly a writ of mandamus can be issued directing the 3rd respondent to implement Ext. P3 order passed by the 2nd respondent.

5. Therefore, there shall be a direction to the 3rd respondent to comply with the directions contained in Ext. P3 order by the District Collector within a period of three weeks from the date of receipt of a copy of this judgment. In order to facilitate the 3rd respondent to proceed with the matter, petitioner is directed to produce a copy of this writ petition along with the appended documents to the 3rd respondent.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY,
JUDGE.

//True copy//

P.A. to Judge

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