

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 26090 of 2015 (I)

PETITIONER :

**THANKAMONY K., AGED 50 YEARS, S/O. KUNJU KRISHNAN NADAR,
VARUVILAKOM PUTHEN VEEDU HOUSE, KONNANNURKONAM,
KUNNATHUKAL, KARAKONAM P.O., NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM - 695504.**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENTS :

- 1. KUNNATHUKAL GRAMA PANCHAYATH, REPRESENTED BY ITS
SECRETARY, OFFICE OF THE KUNNATHUKAL GRAMA PANCHAYATH,
KARAKONAM P.O., THIRUVANANTHAPURAM DISTRICT - 695504.**
- 2. SECRETARY KUNNATHUKAL GRAMA PANCHAYATH,
OFFICE OF THE KUNNATHUYKAL GRAMA PANCHAYATH,
KARAKONAM P.O., THIRUVANANTHAPURAM - 695504.**
- 3. VILLAGE OFFICER, KUNNTHUKAL VILLAGE, KUNNATHUKAL P.O.,
THIRUVANANTHAPURAM - 695504.**

BY GOVERNMENT PLEADER SMT. K.A. SAJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE BASIC TAX RECEIPT DT 17/10/2014 ISSUED BY THE R3.**
- P2: COPY OF THE APPROVED SKETCH DT 26/12/2013.**
- P3: COPY OF APPLICATION FOR NUMBERING THE BUILDING DT 30/12/2013
SUBMITTED TO THE R1.**
- P4: COPY OF RECEIPT ISSUED BY THE R1 DT 30/12/2013.**
- P5: COPY OF INFORMATION GIVEN BY THE R1 TO THE PETITIONER DT 13/11/2014.**
- P6: COPY OF REQUEST DT 31/7/2015 SUBMITTED BY THE PETITIONER TO THE
R3.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.26090 of 2015

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Dated this the 21st day of August, 2015

JUDGMENT

The petitioner is seeking a direction to respondents 1 and 2 to measure and demarcate the petitioner's property covered by Exts.P1 to P6 and also measure the distance between the road margin and building constructed by the petitioner as per Ext.P2 Sketch on the basis of the village records and title deed of the property with the assistance of the 3rd respondent village officer and to number the building provisionally.

2. The petitioner and his wife jointly owned an extent of 19 cents of land comprised in Re-survey No.397/19 (Old survey no.15/13) of Kunnathukal village. The petitioner and his family is a BPL family and the petitioner is a kooli. The petitioner availed a loan amount of Rs.10 lakhs from the Canara Bank, Kunathukal Branch for the purpose of constructing 2 shop rooms with an intention to make

income for their livelihood. The petitioner obtained building permit from the 1st respondent for the construction of 2 shop rooms. On the basis of the approved sketch, the petitioner completed the construction of the shop rooms. After completing the construction of the building, the petitioner submitted application for numbering the building to the 1st respondent on 30.12.2013. In response to the request dated 27.10.2014, the 2nd respondent informed the petitioner that the building was constructed without leaving sufficient space from the road margin as per the Rule 27 of the Kerala Building Rules. The petitioner was informed by the panchayat that the building will be numbered only if the petitioner demolished that much extend of the building complying Rule 27. The main objection raised by the 2nd respondent for numbering the building is that the petitioner has not left a distance of 3 meters from the road margin. The petitioner constructed the building strictly in accordance with the distance Rule and keeping more than 3 meter distance from the road

margin. The petitioner's 1 meter width property has already been encroached by the panchayat for road purpose and that extend of property belonged to the petitioner. The petitioner left more than 3 meter distance from the present road margin to construct the building. In order to prove that the allegation is baseless, the petitioner approached the 3rd respondent with a request to conduct measurement and to demarcate the property of the petitioner as per Ext.P6. However, no action has been taken by the respondent ; it is alleged. It is with this backdrop, the petitioner has approached this Court.

3. I have heard the learned counsel for the petitioner and the learned Government Pleader in the matter.

4. When the matter came up for hearing, the learned counsel for the petitioner confined his arguments to the second prayer for a direction to the 3rd respondent to demarcate the boundary of the petitioner's property and also to measure the distance between the road margin and building constructed by the petitioner as per

Ext.P2 Sketch.

5. In the light of the said prayer, this writ petition is disposed of, without issuing notice to respondent nos.1 and 2, directing the 3rd respondent to demarcate the boundary of the petitioner's property on the strength of this order and also to measure the distance between the road margin and the building constructed by the petitioner as per Ext.P2 Sketch under due intimation to respondents 1 and 2 and submit a report to the 2nd respondent, who shall thereafter consider the petitioner's request for numbering the building, after affording the petitioner an opportunity of being heard. The demarcation by the 3rd respondent shall be completed within 3 weeks of receipt of copy of this judgment. The other exercises by the respondent panchayat shall be completed within 3 weeks of receipt of the report from the Village officer.

Sd/-

A.V.RAMAKRISHNA PILLAI,
Judge.

ami/

//True copy//

P.A. to Judge