

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

WP(C).No. 26301 of 2015 (K)

PETITIONER :

**SETHUMADHAVAN,
S/O. GOPINATHAN MENON, AGED 46 YEARS,
DHANYA, VEEKSHANAM ROAD,
ERNAKULAM NORTH P.O., KOCHI,
REPRESENTED BY POWER OF ATTORNEY HOLDER BALRAM G. MENON,
S/O. GOPINATHAN MENON, AGED 46 YEARS, DHANYA,
VEEKSHANAM ROAD, ERNAKULAM NORTH P.O, KOCHI.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

- 1. THE ADDITIONAL TAHASIL DAR,
PALAKKAD - 678 001.**
- 2. THE VILLAGE OFFICER,
PIRAYIRI VILLAGE, PIRAYIRI,
PALAKKAD DISTRICT - 678 019.**

BY GOVERNMENT PLEADER SMT. C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 26301 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE REGISTERED SALE DEED NUMBER 4159/2007 OF THE SRO, PALAKKAD.
- EXHIBIT-P2- TRUE COPY OF THE REGISTERED SALE DEED NUMBER 9952/2008 OF SRO, PALAKKAD.
- EXHIBIT-P3- TRUE COPY OF THE BASIC TAX PAID RECEIPT DATED 1ST SEPTEMBER 2011.
- EXHIBIT-P4- TRUE COPY OF THE POSSESSION CERTIFICATE DATED AUGUST 18, 2011 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT-P5- TRUE COPY OF THE NOTICE DATED JUNE 10, 2013 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT-P6- TRUE COPY OF THE OBJECTION DATED 26 JUNE 2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT-P7- TRUE COPY OF THE ORDER DATED JULY 25, 2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.26301 of 2015

Dated this the 31st day of August, 2015.

J U D G M E N T

The petitioner, impugning the order passed by the 1st respondent under the Kerala Land Conservancy Act, has approached this Court. Ext.P7 is the order.

2. The petitioner's case is that the Tahasildar has no authority or jurisdiction to take action against the petitioner under the Kerala Land Conservancy Act in respect of the River Puramboke vested with the village panchayat. The petitioner also raised objection by way of Ext.P6.

3. The petitioner had relied on the title deed of the property by referring to Exts.P1 and P2. The question is whether the petitioner is in legal possession of the property or not. If the petitioner does not have ownership or possession over the property, necessarily it has to be

adverted by the Tahasildar.

4. The question relating to the jurisdiction to proceed under the Kerala Land Conservancy Act also need to be addressed by the Tahasildar. This would depend upon the answering question relating to the vesting of the property with the local authority.

5. The Tahasildar had not considered the aspects referred as above ; therefore the impugned order is treated as provisional order and the petitioner is given liberty to raise supplemental objection before the Tahasildar. The petitioner shall appear, either directly or through a representative, before the District Collector at 11 a.m. on 17.9.2015. Thereafter, after adverting to the petitioner's objection, necessary orders shall be passed. Till a decision is taken, the status quo as on today shall be maintained. If the Tahasildar wants to proceed for evicting the petitioner, after taking a final decision, the

order shall be suspended for a period of 2 weeks, after communicating the order, to enable the petitioner to work out his remedy.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

ami/

//True copy//

P.A.to Judge