

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C) .No. 26317 of 2015 (L)

PETITIONER(S) :

1. M.A.ALI,
AGED 58 YEARS, S/O ABDUL KHADER,
MOOKKADA, KALADI P.O.,
KALADI VILLAGE, ALUVA TALUK, ERNAKULAM DISTRICT.
2. ABDUL MAJEED,
AGED 47 YEARS, S/O ABDUL KHADER,
MOOKKADA, KALADI P.O.,
KALADI VILLAGE, ALUVA TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENT(S) :

1. THE ASSISTANT EXECUTIVE ENGINEER,
PWD ROADS, SUB DIVISION, ALUVA ERNAKULAM DISTRICT,
PIN:683 101.
2. ASSISTANT ENGINEER,
PWD ROADS SECTION, T.B.JUNCTION, ANGAMALY,
ANGAMALY P.O., ERNAKULAM DISTRICT, PIN:683 101.
3. THE TAHASILDAR,
ALUVA TALUK, ERNAKULAM DISTRICT, PIN:683 101.
4. THE VILLAGE OFFICER,
KALADY VILLAGE, KALADY P.O.,
ERNAKULAM DISTRICT-683 574.

BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1: TRUE COPY OF THE NOTICE NO.GL/14-15 DATED 25.3.2015 ISSUED TO THE FIRST PETITIONER BY THE FIRST RESPONDENT.
- EXHIBIT P2: TRUE COPY OF THE NOTICE NO.GL/14-15 DATED 25.3.2015 ISSUED TO THE SECOND PETITIONER BY THE FIRST RESPONDENT.
- EXHIBIT P3: TRUE COPY OF THE TAX RECEIPT DATED 22.8.2015 ISSUED BY THE VILLAGE OFFICER, KALADY VILLAGE TO THE FIRST PETITIONER.
- EXHIBIT P4: TRUE COPY OF THE TAX RECEIPT DATED 27.7.2015 ISSUED BY THE VILLAGE OFFICER, KALADY VILLAGE TO THE SECOND PETITIONER.
- EXHIBIT P5: TRUE COPY OF THE NOTICE NO.50/99 DATED 1.2.1999 ISSUED BY THE FIRST RESPONDENT TO MR.IBRAHIMKUTTY.
- EXHIBIT P6: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 23.9.2004 IN O.P.NO.2898/1999.
- EXHIBIT P7: TRUE COPY OF LOCATION PLAN-CUM LOCATION CERTIFICATE NO.2091/09 DATED 19.8.2009 TO MR. IBRAHIMKUTTY.
- EXHIBIT P8: TRUE COPY OF THE INTERIM ORDER DATED 21.5.2015 IN WPC NO.14817/2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.26317 of 2015

Dated this the 16th day of October, 2015

JUDGMENT

Petitioners, aggrieved by notices under the Kerala Land Conservancy Act, have approached this Court. The land conservancy proceedings are initiated to evict the encroachment on PWD road.

2. It is contended by the petitioners that the Executive Engineer has no authority to take proceedings under the Kerala Land Conservancy Act.

3. It is submitted by the learned Government Pleader that the petitioners have been served with sketch as well. It is to be noted that under G.O.(P) No.509/85/RD, the Government has delegated the power of the District Collector to the Executive Engineer.

This Court is of the view, if the authorities are initiating in exercise of power under the Kerala Land Conservancy Act, the petitioners have a remedy challenging the decision to evict them by filing an appeal. Therefore, with liberty to avail statutory remedy, this writ petition is disposed of. To work out the statutory remedy, coercive steps shall be deferred for a period of four weeks.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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