

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 29271 of 2013 (H)

PETITIONER(S) :

1. N.A.GEORGE,
AGED 59 YEARS, S/O.ANTHONY, NEELAMKAVIL HOUSE,
MARATHAKKARA VILLAGE,
KUTTANELLUR P.O., THRISSUR DT. 680 014.
2. K.M.KUNCHAMI,
AGED 65 YEARS, W/O.C.A.UMMER (LATE),
VEETTIPARAMBIL HOUSE,
VADAKKEKAD P.O., KUNNAMKULAM, THRISSUR DT.

BY ADV. SRI.A.HAROON RASHEED.

RESPONDENT(S) :

1. DISTRICT COLLECTOR, CIVIL STATION,
AYYANTHOLE, THRISSUR 680 003.
2. DISTRICT SUPRENDENT OF SURVEY,
CIVIL STATION, AYYANTHOLE, THRISSUR 680 003.
3. TALUK SURVEYOR,
TALUK OFFICE, THRISSUR, CHEMBUKKAV P.O.,
THRISSUR DT. 680 005.
4. THE VILLAGE OFFICER,
MARATHAKKARA VILLAGE OFFICE, KUTTANELLUR P.O.,
THRISSUR DT. 680 014.

BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTATHIL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1: TRUE COPY OF THE TITLE DEED NO.1800 DATED 30/05/1991 OF
1ST PETITIONER'S PROPERTY.

EXT.P2: TRUE COPY OF THE TAX RECEIPT DATED 19/7/2013 IS
PERTAINING TO THE PETITIONER'S PROPERTY.

EXT.P3: TRUE COPY OF THE TITLE DEED NO.5155 DATED 12/11/2003
PROPERTY OF 2ND PETITIONER'S SON.

EXT.P4: TRUE COPY OF THE TAX RECEIPT DATED 19/11/2013 IS
PERTAINING TO THE PROPERTY OF 2ND PETITIONER'S SON.

EXT.P5: TRUE COPY OF THE PHOGRAPHS SHOWING COMPOUND WALL OF BOTH
PROPERTIES AND LIE OF P.W.D ROAD.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 29271 of 2013

Dated this the 20th day of March, 2015

J U D G M E N T

The petitioners have approached this Court to restrain the respondents from encroaching upon the property of the petitioners without following the procedure prescribed by law.

2. The 1st petitioner is the owner in possession of 14.5 cents of property comprised in Sy.No.326 sub division 1 of Marathakkara Village; and the 2nd petitioner is the mother of Mr.Muhammed Faisal, who is in absolute possession and valid title of 14.5 cents of property in Sy.No.326 sub division 1 of Marathakkara Village. Both properties are lying adjacent. The petitioners allege that some officials from the office of the 2nd respondent entered into their properties without serving any notice or intimation for conducting survey and demarcation of the properties. When the 1st petitioner enquired into the facts,

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the officials replied that portions of both the properties have been acquired by the Government for widening PWD road; and the 1st petitioner was directed to demolish the compound wall within two days. When the 1st petitioner raised objection, the officials stopped their attempt to mark property and warned the petitioners that they would come again with adequate force for demolishing the compound wall and acquiring the properties; it is alleged. According to the petitioners, the action of the respondents without serving any notice is illegal and unjustifiable. According to them, they have not relinquished their rights in favour of the Government. It is in this context, the petitioners have come up before this Court.

3. The learned senior Government Pleader, on instructions, submitted that the State has no intention to take over any property of the petitioners without having recourse to the procedure established by law. It was further pointed out that these were attempts on the part of the petitioners to grab a portion of the road

'puramboke'.

Considering the facts and circumstances of the case, the writ petition is disposed of directing the respondent State that the petitioners shall not be evicted from the properties owned by them except through due process of law. However, it is made clear that this judgment will not stand in the way of the Government in evicting the petitioners from the property of the Government, if the petitioners have encroached upon the property of the Government.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-