

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 28369 of 2015 (U)

PETITIONER :

**A.I.JOHN
ANDUPARAMBIL, RUBBER BOARD P.O., MANARKAD VILLAGE
KOTTAYAM TALUK, KOTTAYAM DISTRICT, PIN - 686 009.**

BY ADV. SRI.JACOB THOMAS VELLUKUNNEL

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR
COLLECTORATE, KOTTAYAM, PIN - 686 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
COLLECTORATE, KOTTAYAM, PIN - 686 001.**
- 3. MANARKAD GRAMA PANCHAYATH
MANARKAD P.O., KOTTAYAM, PIN - 686 019.
REPRESENTED BY ITS SECRETARY.**

R1 & R2 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

WP(C).No. 28369 of 2015 (U)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P-1: A TRUE COPY OF THE NOTICE ISSUED BY THE SECRETARY,
 MANARKAD PANCHAYATH DATED 4.7.2015 BEARING NO.A11/3285/15.**
- EXT.P-2: A TRUE COPY OF THE ORDER DATED 28.5.2015 BEARING
 NO.C-2009/2015 BY THE 2ND RESPONDENT, RDO.**
- EXT.P-3: A TRUE COPY OF THE APPEAL MEMORANDUM DATED 22.7.2015 FILED
 BEFORE THE IST RESPONDENT DISTRICT COLLECTOR.**
- EXT.P-4: A TRUE COPY OF THE NOTICE DATED 10.8.2015 ISSUED BY THE 3RD
 RESPONDENT.**
- EXT.P-5: A TRUE COPY OF THE COMPLAINT FILED BY MR.K.A.ABRAHAM
 DATED 25.7.2015 BEFORE THE IST RESPONDENT.**
- EXT.P-6: A TRUE COPY OF THE LETTER BY THE IST RESPONDENT DATED
 4.8.2015 FORWARDING THE SAME TO THE 3RD RESPONDENT.**
- EXT.P-7: A TRUE COPY OF THE ORDER PASSED BY THE IST RESPONDENT
 DATED 10.9.2015 BEARING NO.E11-36810/2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 28369 of 2015

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Dated this the 5th day of October, 2015

J U D G M E N T

The petitioner challenging an order passed by the Revenue Divisional Officer, Kottayam by Ext.P2 has approached the District Collector in appeal under the Land Conservancy Act. By Ext.P7 order the District Collector found that the appeal is not maintainable as the order passed by the RDO is based on the request of the Panchayat Secretary of the local authority under the Kerala Panchayat Raj (Removal of Encroachment And Imposition And Recovery of Penalty for Unauthorized Occupation) Rules 1996.

2. This Court is of the view that action initiated by the RDO is under the Panchayat Raj Act and the District Collector has the right to reject the petitioner's appeal.

3. However the petitioner points out the fact that the petitioner was not heard by the RDO before initiating action as per Ext.P2.

4. This Court is of the view that the petitioner also be given

an opportunity before taking further action in this matter by the RDO. Therefore treating as Ext.P2 as a provisional order, the petitioner shall raise his objection before the RDO within three weeks from the date of receipt of the copy of this judgment. Thereafter the RDO shall pass appropriate order after hearing the Panchayath and the petitioner in this matter.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE