

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 30192 of 2015 (Y)

PETITIONER:

**V.C. RAJAN, S/O.V.C. CHERIYAN,
AGED 48 YEARS, VANIAPURACKAL VEEDU,
PODIYADI P.O., NEDUMPRAM (V),
THIRUVALLA- 689 110.**

**BY ADVS.SRI.SAJITH KUMAR V.,
SRI.M.JAYAKRISHNAN,
SMT. DEEPA RAJESH.**

RESPONDENTS:

- 1. THE REVENUE DIVISIONAL OFFICER/
SUB DIVISIONAL MAGISTRATE,
THIRUVALLA -689 101.**
- 2. ADDITIONAL TAHSILDAR,
THIRUVALLA -689 101.**
- 3. SRI.JOHN KURIAN, S/O.JOHN C-1,
NANDA DWEED, 44, VONLAVI ROAD,
RICHARD TOWN, BANGALORE,
HAVING PERMANENT RESIDENCE AT CHIRAPARAMBIL,
PERUMTHURUTHY, KAVUMBHAGAM, PIN- 689 102.**

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

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- A TRUE COPY OF THE ORDER NO B3-5644/14 DTD. 07/01/2015 ISSUED BY THE 1ST RESPONDENT.
- P2:- A TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P3:- A TRUE COPY OF THE ORDER NO. B3-5644/14 DTD. 13/05/2015 ON BEHALF OF THE 1ST RESPONDENT.
- P4:- A TRUE COPY OF THE ORDER NO. C8-4907/15 DTD. 27/07/2015.
- P5:- A TRUE COPY OF THE ORDER DTD. 25/07/2013 IN IA. 1338/2013 IN OS. 342/2013 OF MUNSIF COURT, THIRUVALLA.
- P6:- A TRUE COPY OF THE INTERIM APPLICATION IN OS. 342/2013 OF MUNSIF COURT, THIRUVALLA.
- P7:- A TRUE COPY OF THE PLEADEING IN IA. 1338/2013 OF MUNSIF COURT, THIRUVALLA.
- P8:- A TRUE COPY OF THE COMMISSION REPORT DTD. 15/10/2013 BEFORE THE MUNSIF COURT, THIRUVALLA.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.30192 of 2015

Dated this the 6th day of November, 2015

JUDGMENT

The petitioner, challenging an order of the Sub Divisional Magistrate, Thiruvalla, has approached this Court. Ext.P1 is the order.

2. It is found in Ext.P1 that the way in the survey records having width of two metres has been now reduced to 60 Sq.m. This was on account of construction of boundary wall by the petitioner. The petitioner has been directed to demolish the boundary wall under Section 133 of the Code of Criminal Procedure. The petitioner submits that there is a civil dispute between the petitioner and the third respondent and the civil suit is pending. In the civil suit, an injunction has been granted. It is not discernible in Ext.P1 that this order has been initiated based on the obstruction caused to the public road or to the obstruction in the Government land.

In that view of the matter, this Court is of the view, Ext.P1 is not sustainable and accordingly, it is set aside. However, it is open for the Sub Divisional Magistrate to initiate any fresh action after giving notice to the petitioner if there is any obstruction to the public way or the encroachment in the Government land.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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