

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 30549 of 2014 (P)

PETITIONER :

K.V.PURUSHOTHAMAN, AGED 66 YEARS, S/O. VELAYUDHAN,
KALERIKKAL HOUSE, VAKATHANAM VILLAGE,
CHANGANACHERRY TALUK, KOTTAYAM DISTRICT.

BY ADVS.SRI.S.JAYAKRISHNAN
SRI.VINO V.GEORGE
SRI.S.PARAMESWARA PRASAD

RESPONDENT(S):

1. THE DISTRICT COLLECTOR,
KOTTAYAM, PIN-686 001.
2. THE TAHSILDAR,
CHANGANACHERRY TALUK,
CHANGANACHERRY-686 101.
3. THE VILLAGE OFFICER,
VAKATHANAM VILLAGE,
CHANGANACHERRY. PIN-686 538.
4. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT ROADS DIVISION,
KOTTAYAM-686 001.

*ADDL.R5 IMPEADED

*ADDL.R5: VAKATHANAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, VAKATHANAM,
CHANGANACHERRY, PIN-686 538

*ADDL.R5 IS IMPEADED AS PER ORDER DATED 20/11/2014 IN
IA.NO.15881/2014.

WP(C).NO.30549/2014

***ADDL.R6 IMPEADED**

***ADDL.R6: P.T.THOMAS, AGED 76 YEARS, S/O.THOMAS,
PILLACHIRA HOUSE, PUTHENCHANDA.P.O., VAKATHANAM,
KOTTAYAM-686 538**

***ADDL.R6 IS IMPEADED AS PER ORDER DATED 01/09/2015 IN
I.A.NO.12347/2015.**

**R1 TO R4 BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN
ADDL.R5 BY ADVS. SRI.BECHU KURIAN THOMAS
ADDL.R6 BY ADV. SRI.K.SHAJ
SRI.SAJJU.S**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1. TRUE COPY OF THE BUILDING NUMBER ISSUED BY THE VAKATHANAM PANCHAYATH.
- P2. TRUE COPY OF THE NOTICE NO. D1-76/05 DATED 4-11-14 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- P3. TRUE COPY OF THE REPLY DATED 7-11-14 FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- P4. TRUE COPY OF THE REPRESENTATION DATED 10-11-14 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:

- R5(1) COPY OF THE ORDER NUMBERED AS P.R.410/05 DATED 05/03/2005 ISSUED BY THE TAHASILDAR CHANGANACHERRY TO THE FIRST RESPONDENT
- R5(2) COPY OF THE LETTER NO.E7-3319/GL/2011 DATED 09/12/2011 SENT BY THE EXECUTIVE ENGINEER, PWD ROAD DIVISION, KOTTAYAM
- R5(3) COPY OF THE APPLICATION FILED BEFOR THE TALUK LEGAL SERVICE COMMITTEE
- R5(4) COPY OF THE APPLICATION FILED BEFORE THE EXECUTIVE ENGINEER, PWD ROAD DIVISION KOTTAYAM DATED 25/04/2014
- R5(5) COPY OF THE JUDGMENT DATED 06/04/2015 IN WP(C).NO.27763/2014.

/TRUE COPY/

P.A.TO JUDGE

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A. MUHAMED MUSTAQUE, J.

.....
W.P.(C) No.30549 of 2014 (P)

.....
Dated this the 1st day of September, 2015

JUDGMENT

I.A.No.12348 of 2015

Heard. Allowed.

W.P.(C)

2.The petitioner challenging Ext.P2 notice issued under the Kerala Land Conservancy Act and Kerala Highway Protection Act, 1999, has approached this Court. The grievance of the petitioner is that, he is running a tattukada/petty shop at Pullukattupadi junction by the side of Thengana–Manarkadu Public Works Department. While so, the Executive Engineer, Public Works Department Roads Division/4th respondent has issued Ext.P2 notice to the petitioner and directed him to remove the unauthorized occupation in the public place, which is under challenge in this writ petition.

3.The learned counsel for the additional 5th respondent submits that the petitioner has encroached upon the public land and based on this complaint, action has been initiated.

4. Considering the facts and circumstances of the case, petitioner shall raise objection to Ext.P2 notice within two weeks from the date of receipt of a copy of this judgment. Thereafter appropriate decision shall be taken by the Executive Engineer after giving an opportunity of hearing to the petitioner and additional 5th respondent, within a further period of four weeks. Further action shall be subject to the outcome of the orders of the above officer.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE

AMV/02/09/