

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 30648 of 2014 (E)

PETITIONER :

**S.V. SUBRAMANIAN, AGED 55 YEARS,
S/O.VELAYUDHAN, SASTHAMPARAMBIL HOUSE,
KUMBALANGY SOUTH POST, ERNAKULAM, KOCHI 682 007**

BY ADV. SRI.VINOD VALLIKAPPAN

RESPONDENTS :

- 1. THE SECRETARY
KUMBALANGY GRAMA PANCHAYATH,
KUMBALANGY POST, ERNAKULAM KOCHI 682 007**
- 2. THE SECRETARY
PALLURUTHY BLOCK PANCHAYATH,
PALLURUTHY POST, ERNAKULAM, KOCHI 682 007**
- 3. MOHANAN, S/O.SANKUNNY
KOLLASANYPARAMBIL, KUMBALANGY SOUTH POST,
ERNAKULAM, KOCHI 682 007**
- 4. ASOKAN, S/O.SANKUNNY,
KOLLASANYPARAMBIL, KUMBALANGY SOUTH POST,
ERNAKULAM, KOCHI 682 007.**
- 5. LALU, S/O.SANKUNNY,
KOLLASANYPARAMBIL, KUMBALANGY SOUTH POST,
ERNAKULAM, KOCHI 682 007.**
- 6. THE ADDITIONAL TAHASILDAR
TALUK OFFICE, KOCHI.**

R1 BY ADV. SRI.S.SHANAVAS KHAN

R2 BY ADV. SRI.K.L.JOSEPH

R3 TO R 5 BY ADV. SRI.NIRMAL V NAIR

BY ADV. SRI.ANEESH JOSEPH

BY ADV. SRI.RILGIN V.GEORGE

R6 BY GOVERNMENT PLEADER SRI. JUSTIN JACOB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: THE TRUE COPY OF THE DIRECTION OF THE ADDITIONAL
TAHASILDAR ALONG WITH THE REPORT OF THE TALUK SURVEYOR
COMMUNICATED TO THE 2ND RESPONDENT DATED 24-12-2013.
- EXT.P2: THE TRUE COPY OF THE COMMUNICATION DATED 22-1-2014 FROM
THE 2ND RESPONDENT TO THE 1ST RESPONDENT.
- EXT.P3: THE TRUE COPY OF THE COMPLAINT BY THE PETITIONER TO THE
RDO KOCHI DATED 9-6-2014.
- EXT.P4: THE TRUE COPY OF THE ORDER OF THE RDO DATED 4-10-2014
ALONG WITH THE REPORT OF THE VILLAGE OFFICER, KUMBALANGI.

RESPONDENT(S)' EXHIBITS :

- EXT.R5(a): COPIES OF THE PHOTOGRAPHS OF THE KAYAL PURAMBOKE
- EXT.R5(b): COPIES OF THE PHOTOGRAPHS OF THE DOCK

//TRUE COPY//

P.A. TO JUDGE

bp

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 30648 of 2014

Dated this the 04th day of March, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondents, as well as the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the grievance of the petitioner is that respondents 3 to 5 have encroached on the puramboke land, which is the public road, belonging to the first respondent Grama Panchayat. Ventilating his grievance that despite his complaint to various authorities and despite positive findings from District Revenue Administration, so far no action has been taken against respondents 3 to 5, who are the alleged encroachers. Accordingly, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner has drawn my attention to Exhibit P1, which is said to be a communication from Additional Tahsildar to the second respondent. He has also further submitted that apart from the Additional Tahsildar, even the Sub Collector in charge, based on the complaint made by the petitioner, has addressed Exhibit P4 communication to the first respondent, pointing out the need of taking the necessary action, concerning the encroachment the petitioner has complained of.

4. The learned counsel for the respondent Grama Panchayat has submitted that Exhibit P1 report, based on the alleged survey conducted by the Additional Tahsildar, is without any notice to the first respondent Grama Panchayat. He has also contended that the issue raised by the petitioner requires a thorough examination and a proper decision thereof. According to him, even the petitioner is one of the encroachers. In the end, the learned counsel has submitted that the respondent Grama Panchayat is willing to undertake a proper survey with the help of the District Revenue Administration, and take necessary action concerning all encroachments including even that of the petitioner, if it is

proved that he too has encroached upon any part of the property belonging to the Grama Panchayat.

5. The learned counsel for the respondents 3 to 5, in tune with the averments made in the counter affidavit filed by the said respondents, has strenuously contended that to this day they have not been put on notice. He contends that the respondents 3 to 5 being fishermen having been in peaceful possession of certain property for generations, they cannot be called encroachers. He has further contended that whatever structures that had allegedly been put up by the respondents have already been removed, thus causing no hindrance of whatever nature.

6. Be that as it may, this Court is not inclined to appreciate the rival contentions of the respective parties on merit. It is, however, made clear that in the light of Exhibits P1 and P4, communications by the Revenue Officials, the respondent Grama Panchayat shall conduct its own enquiry and take an appropriate decision on the issues raised by the petitioner regarding the alleged encroachment.

7. Given the willingness expressed by the learned counsel for the first respondent, this Court disposes of the

writ petition with a direction to the first respondent to consider the petitioner's objections concerning the alleged encroachment, and take appropriate decision thereon as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

With the above observation, this writ petition is disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-