

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(C).No.31627 of 2014 (C)

PETITIONER:

**BABU THOMAS CHANDY,SON OF LATE CHANDY,
AGED 56 YEARS,KUDIYATHU KUZHUPPIL HOUSE,
ERAVIMANGALAM KARA,MUTTUCHIRA POST,
MANJOOR VILLAGE,VAIKOM TALUK,KOTTAYAM DISTRICT.**

BY ADV.SRI.P.KURUVILLA JACOB

RESPONDENT'S:

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE BUILDING,KOTTAYAM-686 002.**
- 2. JOSEPH THOMAS,MUKALEPARAMBIL HOUSE,
MUTTUCHIRA POST,VAIKOM TALUK,
KOTTAYAM DISTRICT,PIN-686 613.**
- 3. THE VILLAGE OFFICER,MANJOOR VILLAGE,
MANJOOR P.O,KOTTAYAM DISTRICT,PIN-686 001.**
- 4. THE NODAL OFFICER,SUTHARYA KERALAM,
COLLECTORATE BUILDINGKOTTAYAM-686 002.**
- 5. THE REVENUE DIVISIONAL OFFICER,
PALA,KOTTAYAM DISTRICT,PIN-686 001.**
- 6. THE DEPUTY DIRECTOR,SOCIAL JUSTICE DEPARTMENT,
REVENUE TOWER,THEKKUMGOPURAM,KOTTAYAM,PIN-686 001.**
- 7. THE DEPUTY SUPERINTENDENT OF POLICE,
PALA,PIN-686 001.**
- 8. THE S.I OF POLICE,KADUTHURUTHY POLICE STATION,
KADUTHURUTHY POST,KADUTHURUTHY,
KOTTAYAM DISTRICT,PIN-686 001.**

**R1,R3 TO R8 BY GOVT. PLEADER SRI.BIJU MEENATTOOR
R2 BY ADVS.SRI.T.K.SASIKUMAR
SRI.C.A.NAVAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1:TRUE COPY OF 2ND RESPONDENTS COMPLAINT DATED 11-12-2013
LODGED TO 4TH RESPONDENT.**

**EXHIBIT P2:TRUE COPY OF THE REPORT DATED 5-2-14 OF 3RD RESPONDENT
FORWARDED 5TH RESPONDENT.**

**EXHIBIT P3:TRUE COPY OF THE CONDITIONAL ORDER DATED 3-5-14 PASSED
BY 5TH RESPONDENT ON EXT.P1 COMPLAINT.**

**EXHIBIT P4:TRUE COPY OF PETITIONER'S OBJECTION FILED BEFORE 5TH
RESPONDENT.**

**EXHIBIT P5:TRUE COPY OF PETITIONER'S DETAILED OBJECTION
DATED 21-07-14 FILED BEFORE 5TH RESPONDENT.**

**EXHIBIT P6:TRUE COPY OF THE 5TH RESPONDENT'S REPORT
DATED 25-07-2014 FORWARDED TO 4TH RESPONDENT.**

**EXHIBIT P7:TRUE COPY OF 1ST RESPONDENT'S ORDER DATED 5-09-14
COMMUNICATED TO 6TH RESPONDENT.**

**EXHIBIT P8:TRUE COPY OF 1ST RESPONDENT'S ORDER DATED 5-09-14
COMMUNICATED TO 7TH RESPONDENT.**

**EXHIBIT P9:TRUE COPY OF PETITIONER'S COMPLAINT DATED 12-10-2014
LODGED BEFORE THE DISTRICT SUPERINTENDENT OF POLICE,
KOTTAYAM.**

RESPONDENT'S EXHIBITS:

**EXT.R2(A):THE PHOTOSTAT COPY OF THE DISABILITY CERTIFICATE
DATED 10.7.2010.**

**EXT.R2(B):PHOTOSTAT COPY OF THE COMPLAINT WITH ENDORCEMENT OF THE
DISTRICT COLLECTOR DATED 11.6.2014.**

**EXT.R2(C):PHOTOSTAT COPY OF THE REPORT OF VILLAGE OFFICER
DATED 24.7.2014.**

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

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Dated this the 19th day of June, 2015

J U D G M E N T

The petitioner is allegedly aggrieved with Exts.P6, P7 and P8 orders passed by the R.D.O and the District Collector. The entire cause of action arose on the 2nd respondent apprehending that a tree standing in the petitioner's property would any time fall on the residential house of the 2nd respondent. The 2nd respondent is said to have made a complaint and it was directed by the R.D.O as per Ext.P3, wherein the petitioner was directed to remove three trees within fifteen days or submit objections with respect to the allegations. An objection was submitted admittedly at Ext.P4 before the R.D.O Pala. Nothing seems to have been done there at.

2. In the meanwhile, the over anxious 2nd respondent approached the officer-in-charge (Nodal Officer) of a programme

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initiated by the Chief Minister claiming that one tree, with decaying roots, is standing dangerously in the property of the petitioner. The same was forwarded to the R.D.O, on which Ext.P6 report was forwarded by the R.D.O to the Nodal Officer, who is the District Collector.

2. Ext.P6 is only a report and the challenge made to the said report is inconsequential. The report indicates that the petitioner on approaching the R.D.O with an objection had expressed his willingness to cut off the branches overhanging the 2nd respondent's property, which however, the 2nd respondent was not happy with; since he apprehended that the entire tree would be uprooted causing injury to his residential building as also to herself and his members residing therein. In any event, that is pending consideration in Ext.P3. In the report filed by the R.D.O at Ext.P6, the Village Officer having made a personal enquiry also found that the petitioner is residing in his house

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with two unmarried sisters and they have no social contact.

3. It is in this context that the District Collector issued Exts.P7 and P8 only so as to ensure whether the women staying with the petitioner needs any protection. There can be no infirmity found in the District Collector's orders being the Head of the District Administration and looking at the context in which the report of the R.D.O was made. Hence the challenge against Exts.P7 and P8 cannot be sustained.

4. However, the 2nd respondent is concerned with the tree which is said to be dangerously situated in the petitioner's property. In this context, it has been noticed that the complaint of the 2nd respondent was only with respect to one tree, which however the Village Officer and the R.D.O has found existing as regards two other trees also. This seems to be on the basis of another complaint filed by another person. In any event, these would have to be considered together and the R.D.O would

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hence treat Ext.P3 as a notice and the petitioner and the 2nd respondent are directed to appear before the R.D.O on 26.06.2015 at 11 a.m, on which date, the R.D.O shall give a suitable date of hearing and within that time get a report from the concerned Village Officer and pass appropriate orders after hearing both the parties as also the other complainant, if need be by sending a notice to him.

The writ petition is dismissed, but with the above directions.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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P.A to Judge.