

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

WP(C).No. 31703 of 2014 (K)

PETITIONER(S) :

**SIVAN KADALI,
MEMBER, WARD NO.II, VENGOLA GRAMA PANCHAYATH,
VENGOLA P.O, PERUMBAVOOR, ERNAKULAM (S/O. CHINGAN,
AGED 52 YEARS, KADALIPARAMBIL HOUSE, WEST VENGOLA P.O.,
PERUMBAVOOR).**

**BY ADVS.SRI.K.S.MADHUSOODANAN
SRI.THOMAS CHAZHUKKARAN
SRI.M.M.VINOD KUMAR
SRI.P.K.RAKESH KUMAR
SRI.K.S.MIZVER**

RESPONDENT(S) :

- 1. STATE OF KERALA,
TO BE REPRESENTED BY SECRETARY, REVENUE DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM- 695 001.**
- 2. DISTRICT COLLECTOR,
ERNAKULAM- 682 030.**
- 3. TAHSILDAR,
KUNNATHUNADU TALUK, PERUMBAVOOR- 683 101.**
- 4. VILLAGE OFFICER,
VENGOLA, PERUMBAVOOR- 683 101.**
- 5. VENGOLA GRAMA PANCHAYATH,
PANCHAYATH, VENGOLA, PERUMBAVOOR- 683 101,
REPRESENTED BY SECRETARY.**

**R1 TO R4 BY GOVERNMENT PLEADER SRI.MANOJ.P.KUNJACHAN
R5 BY ADV. SRI.C.A.NAVAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: PHOTO SHOWS THE RUNNING OF ANGANWADI IN THE VARANDAH OF A HOUSE.**
- EXHIBIT P2: PHOTOCOPY OF THE CIRCULAR BEARING NO.62671/U3/02/REVENUE DATED 16-01-2004.**
- EXHIBIT P3: PHOTOCOPY OF THE RESOLUTION NO.V(13) DATED 24-12-2011.**
- EXHIBIT P4: PHOTOCOPY OF THE LETTER OF THE PRESIDENT OF VENGOLA PANCHAYATH TO THE 1ST RESPONDENT DATED 30-07-2012.**
- EXHIBIT P5: PHOTOCOPY OF THE ORDER OF 1ST RESPONDENT BEARING NO.68335/U3/2013/REVENUE DATED 03-10-2013.**
- EXHIBIT P6: PHOTOCOPY OF THE REPLY UNDER R.I ACT.**
- EXHIBIT P7: PHOTOCOPY OF THE ORDER BEARING NO.78551/U3/2012/REVENUE DATED 28-11-2013.**
- EXHIBIT P8: PHOTOCOPY OF THE LETTER BEARING NO.G2-14578/2012 DATED 17.04.2013 OF ADDL. TAHSILDAR, KUNNATHUNADU.**
- EXHIBIT P9: PHOTOCOPY OF THE LETTER BEARING NO.7-32215/11 DATED 27.04.2013.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE

Msd

K. VINOD CHANDRAN, J

W.P(C) No. 31703 of 2014

Dated this the 10th day of June, 2015

J U D G M E N T

The petitioner, a ward member of a Panchayat seeks for assignment of revenue land being 4.84 Ares of land comprised in resurvey No.98.6 in Block No.21 in Ward No.2 of Vengola village, for the purpose of construction of an Anganwadi. The petitioner contends that as per section 3(2) of the Kerala Government Land Assignment Act, 1960 it is incumbent upon the Government to set apart land for the purpose of public purpose and no such assignment can be made without consulting the local authority.

2. The Panchayat is said to have passed a resolution for assignment of said land and also made an

application at Ext.P4 requesting for assignment of 4.84 Ares of land. The petitioner also relies on Ext.P2 circular of the Government which indicate that the Panchayat have been granted the authority to construct a building for Anganwadi and the Government as a special measure has thought it fit to assign revenue land if it is possible and the same is required for construction of Anganwadi building. The petitioner also relies on Ext.P6 order of the Village Officer which indicates that under the Zero Landless Scheme, 43 plots in resurvey no.98/6 block 21 was set apart for assignment and the 39 persons had received pattayam from the said land. With respect to the 4 plots none has sought for pattayam and the same having a total extent of 4.84 Ares would be ideal for assignment is the contention made by the petitioner herein.

3. The learned Government Pleader, however

would contend that the present position as to the issuance of pattayam is not evident since Ext.P6 is of the year 2014 and the Circular of 2004 is said to be no more applicable since the existing provisions for assignment of transfer of government land for a public purpose mandates the Head of Department to submit an application in the prescribed form before the District Collector for the purpose of transfer of revenue land for Anganwadi. Application hence should be submitted by the Head of the Social Welfare Department to the District Collector with administrative sanction. In such circumstance, any application made by the Panchayat cannot be considered. But however, the Panchayat could definitely forward the resolution to the Head of the Social Welfare Department, who could obtain sanction from the Government and request the District Collector for

assignment of the said land. The said direction would be effective if the 4 plots remain unassigned and the persons to whom the plots were assigned do not come forward.

Leaving open the remedy of the petitioner to agitate their grievance before the appropriate authority, the writ petition would stand closed.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

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P.A to Judge