

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 18TH FEBRUARY 2010 / 29TH MAGHA 1931

WP(C).No. 35250 of 2008(U)

PETITIONER(S):

CHELLAPPA, S/O.K.C.MOHAMMED IBRAHIM,
AGED 52 YEARS, HOUSE NO.XIII/610,
KAMBRATHCHALLA, MUTHALAMADA, CHITTUR TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S):

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1. MUTHALAMADA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
MUTHALAMADA GRAMA PANCHAYATH,
CHITTUR TALUK, PALAKKAD DISTRICT.
 2. THE SECRETARY, MUTHALAMADA GRAMA
PANCHAYATH, CHITTUR TALUK,
PALAKKAD DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18/02/2010, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF DEMAND NOTICE DATED 27/07/2002 ISSUED BY THE KERALA BACKWARD CLASSES DEVELOPMENT CORPORATION.

P2 : COPY OF NECESSARY APPLICATION (RETURN) SUBMITTED BY THE PETITIONER BEFORE THE PANCHAYAT ON 25/09/2001 FOR ASSESSING THE BUILDING.

P3 : COPY OF THE CERTIFICATE OF EXEMPTION DATED 20/05/2002 ISSUED BY THE ASSESSING AUTHORITY, THE TAHSILDAR, CHITTUR.

P4 : COPY OF LAWYER NOTICE DATED 16/07/2008 ISSUED BY THE PETITIONER TO R2.

P5 : COPY OF REPLY DATED 23/06/2008 OF R2.

P6 : COPY OF PRESS RELEASE PUBLISHED IN THE MATHRUBOOMI DATED 23/03/2008.

//TRUE COPY//

PA TO JUDGE.

jg

ANTONY DOMINIC, J.

W.P.(C.) No.35250 of 2008 (U)

Dated, this the 18th day of February, 2010

J U D G M E N T

Despite service of notice, there is no appearance on behalf of respondents 1 & 2.

2. According to the petitioner, he owns 3 ¼ cents of land within the area of the respondent Panchayat, where he was residing in a tatched shed. He constructed a house during 1999–2000, and by Ext.P2 he applied for assigning number to the building. Orders were not passed on Ext.P2. But however, he was informed that the reason for not passing order was that the land, where the building was constructed, is a wet land.

3. The petitioner states that thereupon he got orders from the Revenue Divisional Order exempting the plot in question from the provisions of the Kerala Land Utilisation Order. Even thereafter, the building was not numbered. Notice was issued and that was replied by Ext.P5, and one of the contentions raised is violation of the Building Rules. It is answered by the petitioner contending that

the Building Rules were made applicable only with effect from 06/06/2007, where as the building in question was construction way back in 2000. Yet another objection stated by the Panchayat is violation of Section 220B of the Kerala Panchayat Raj Act, and that is also answered by the petitioner by contending that the adjacent road is not a State Highway.

In the light of the aforesaid facts and in the absence of anything contrary filed by the respondents, I see no reason why the Panchayat shall not be directed to number the building constructed by the petitioner. Therefore, I direct the 1st respondent to number the building and assess the same to building tax. This shall be done on the production of a copy of this judgment.

This writ petition is disposed of as above.

(ANTONY DOMINIC, JUDGE)

jg