

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C) .No. 31891 of 2014 (J)

PETITIONER(S) :

BINU K.,
AGED 43 YEARS,
S/O.KRISHNAN NAIR, BINU MANDIRAM,
THEERTHA PADAPURAM P.O., VAZHOOR,
KOTTAYAM DISTRICT.

BY ADVS.SMT.DAISY A.PHILIPOSE
SRI.JAI GEORGE

RESPONDENT(S) :

1. THE REVENUE DIVISIONAL OFFICER,
KOTTAYAM, O/O.RDO, KOTTAYAM-2
2. THE VILLAGE OFFICER,
ANICKAD VILLAGE,
PALLIKATHODU P.O., KOTTAYAM - 686 503.
3. THE ASSISTANT ENGINEER,
PWD ROADS,
PWD OFFICE, PAMPADY P.O., KOTTAYAM - 686 505.
4. THE ASSISTANT ENGINEER,
KSEB, KSEB OFFICE, PALLIKATHODU, ANICKAD P.O.,
KOTTAYAM -686 503.
5. PALLIKATHODU GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY.
6. K.S.PADMANABHA PILLA,
KAARTHIKA, ANIKKAD P.O., KOTTAYAM.

R6 BY ADV. SRI.PHILIP J.VETTICKATTU
R6 BY ADV. SRI.B.PREMNATH (E)
BY GOVERNMENT PLEADER SMT.C.K.SHERIN
BY SRI.SAJEEVKUMAR K. GOPAL, SC, KSEB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: A TRUE COPY OF THE ORDER DATED 7/2/2014, ISSUED BY 1ST RESPONDENT.
- EXT. P2: A TRUE PHOTOGRAPH SHOWING THE LOCATION OF THE TREES AND PETITIONER'S HOUSE.
- EXT. P3: A TRUE COPY OF G.O.(R.T) NO.68/2010/F & WLD DATED 10/2/2010.
- EXT. P4: A TRUE COPY OF THE JUDGMENT DATED 26/8/2014 IN WPC NO.21528/2014.
- EXT. P5: A TRUE COPY OF THE LETTER DATED 11/12/2014 SENT BY THE 1ST RESPONDENT TO THE ASSISTANT CONSERVATOR OF FORESTS (SOCIAL FORESTRY), KOTTAYAM.
- EXT. P6: A TRUE COPY OF THE REPORT SUBMITTED BY THE RANGE FOREST OFFICER, SOCIAL FORESTRY RANGE, KOTTAYAM BEFORE THE ASSISTANT CONSERVATOR OF FORESTS (SOCIAL FORESTRY), KOTTAYAM.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.31891 of 2014

Dated this the 5th day of October, 2015

JUDGMENT

The issue in this writ petition pertains to cutting and removing a tree located in the PWD road side.

2. The sixth respondent appears to have approached the Revenue Divisional Officer. The Revenue Divisional Officer invoking the power under Section 133 of the Criminal Procedure Code ordered to cut and remove the tree.

3. This Court at the instance of the sixth respondent in W.P.(C) No.21528/2014 directed the Revenue Divisional Officer to implement this order. Thereafter, challenging the order of the Revenue Divisional Officer, the petitioner has approached this Court in this writ petition.

4. The petitioner points out various orders and submits that there is no threat to invoke the power under Section 133 of the Criminal Procedure Code. The petitioner particularly relies on report of the Revenue Divisional Officer, the Assistant Conservator

of Forests and other report of the Forest Officer. The petitioner also relies on Ext.P3 Government Order, which dealing with cutting of the trees in the lands of the Government.

5. The learned counsel for the sixth respondent now points out the Government Order giving power to the District Collector to decide to cut and remove any trees in the land of PWD if it causes threat. Therefore, it is submitted that the District Collector may decide the tree in question pose threat to the public or not.

This Court is of the view that the question whether there is any threat caused by the tree standing on the public road or the PWD road side has to be decided by the District Collector after hearing the petitioner as well as the sixth respondent and also after calling for necessary reports from the PWD Officials as well as the Conservator of Forest. Needful shall be done by the District Collector within two months and appropriate orders shall be passed thereon after hearing the petitioner and the 6th respondent.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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