

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 33007 of 2014 (A)

PETITIONER:

**JOBY.C.M, AGED 33 YEARS,
S/O MATHAI, CHULLIKKARAN HOUSE,
NADUVATTAM, KUNNILANGADI, PIN - 683 574.**

BY ADV. SRI.DINESH MATHEW J.MURICKEN

RESPONDENT(S):

- 1. MALAYATTOOR NEELESWARAM GRAMA PANCHAYATH,
NEELESWARAM P.O, PIN - 683 584,
RERPESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
MALAYATTOOR NEELESWARAM GRAMA PANCHAYATH,
NEELESWARAM P.O, PIN - 683 584.**
- 3. DENNY K.P., S/O POULOSE,
KANNAPPILLY HOUSE, NADUVATTAM,
KUNNILANGADI, PIN - 683 574.**

**R1 & R2 BY DR.K.P.SATHEESAN (SENIOR ADVOCATE)
BY ADVS. SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.N.MANU THAMPI
R3 BY ADV. SRI.R.SREEHARI**

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

mbr/

WP(C).No. 33007 of 2014 (A)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1 : TRUE COPY OF THE COMPLAINT LODGED BY THE PETITIONER AND
OTHER RESIDENTS BEFORE THE 2ND RESPONDENT
DATED 17-10-2014.**

**EXHIBIT P2 : THE TRUE COPY OF THE STOP MEMO ISSUED BY THE
2ND RESPONDENT DATED 04-11-2014.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

DAMA SESHADRI NAIDU, J.

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W.P.(C) No.33007 of 2014

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Dated this the 3rd day of March, 2015

JUDGMENT

Briefly stated, the petitioner, a neighbour to the 3rd respondent, has filed the present writ petition assailing what is said to be the inaction of the respondent Grama Panchayat in not taking appropriate action against the 3rd respondent, despite issuance of Ext.P2 stop memo against the 3rd respondent, who is allegedly conducting a pig farm without valid licence.

2. In fact this Court on 18.12.2014 issued an interim direction to respondents 1 and 2 to implement Ext.P2, if necessary, with the assistance of Police authorities.

3. On receipt of notice, the 3rd respondent entered his appearance through his counsel, who brought to my notice a judgment dated 02.12.2014 of this Court in W.P.(C) No.32202 of 2014.

4. A perusal of the judgment dated 02.12.2014 in W.P.(C) No.32202 of 2014 reveals that the said writ petition was filed by the 3rd respondent herein along with another person, against,

among others, the respondent Grama Panchayat, which is the 4th respondent. Incidentally, in the said writ petition, the 3rd respondent herein has assailed the very stop memo which is Ext.P3 therein. Eventually this Court issued the following direction:-

"This writ petition is, therefore, disposed of directing the 4th respondent to consider Ext.P4 representation in accordance with law and to pass appropriate orders thereon, as expeditiously as possible and at any rate within a period of two weeks of the date of receipt of a copy of the judgment. If the matter has already been considered, the same shall be reconsidered with notice to the petitioner."

5. Evidently, while this Court issued the interim direction on 18.12.2014 in the present writ petition, this Court had not been aware of the judgment dated 02.12.2014 passed at the behest of the 3rd respondent herein. Under these circumstances, the learned counsel for the respondent Grama Panchayat has brought to my notice the incongruous situation.

6. According to the learned counsel, in one judgment this Court issued a direction to the Grama Panchayat to consider the 3rd respondent's case within a specific time frame; subsequently, in the present writ petition an interim direction was given to implement the stop memo, which in fact stood stayed through the earlier judgment.

7. Indeed, had the information about the judgment dated 02.12.2014 in W.P.(C) No.32202 of 2014 been brought to the notice of this Court, it would not have issued an interim order on 18.12.2014 .

8. In the facts and circumstances, this Court is of the considered opinion that the interim order dated 18.12.2014 shall be vacated and is accordingly vacated. Subsequently, this Court reiterates the direction given in paragraph 4 of the judgment in W.P.(C) No.32202 of 2014, which has already been extracted.

It is, therefore, made clear that the respondent Grama Panchayat shall consider the representation of the 3rd respondent, after affording an opportunity of hearing to all the affected persons, including the very applicant, and pass appropriate orders thereon, as expeditiously as possible, at any rate within 30 days from the date of receipt of a copy of this judgment.

DAMA SESHADRI NAIDU, JUDGE

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