

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 33187 of 2014 (W)

PETITIONER:

**C.V.SEbastian AGED 56 YEARS
AGED 56, S/O.LATE VARGHESE, CHUNDANGAL HOUSE
KOTTAMAM, NEELESHWARAM P.O.
ERNAKULAM DISTRICT-683 584.**

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, COLLECTORATE, KAKKANAD
ERNAKULAM-682 030.**
- 2. THE REVENUE DIVISIONAL OFFICER
REVENUE DIVISIONAL OFFICE, FORT KOCHI
ERNAKULAM DISTRICT-682 001.**
- 3. THE VILLAGE OFFICER
VILLAGE OFFICE, KALADY, ERNAKULAM DISTRICT-683 574.**
- 4. MALAYATTOOR-NEELESHWARAM GRAMA PANCHAYAT
NEELESHWARAM P.O., ERNAKULAM DISTRICT-683 574
REPRESENTED BY ITS SECRETARY-683 574.**
- 5. THE SECRETARY
MALAYATTOOR NEELESHWARAM GRAMA PANCHAYAT
NEELESHWARAM P.O., ERNAKULAM DISTRICT-683 574.**
- 6. JOJO
S/O.JOSEPH, PUTHUSSERY HOUSE, KOTTAMAM
ERNAKULAM DISTRICT-683 584.**

**R4,R5 BY ADV. DR.K.P.SATHEESAN (SR.)
R4,R5 BY ADV. SRI.M.R.JAYAPRASAD
R4,R5 BY ADV. SRI.P.MOHANDAS (ERNAKULAM)
R4,R5 BY ADV. SRI.ANOOP.V.NAIR
R4,R5 BY ADV. SRI.S.VIBHEESHANAN
R4,R5 BY ADV. SRI.N.MANU THAMPI
R6 BY ADV. SRI.JIJO JOSEPH
BY GOVERNMENT PLEADER SRI. NOUSHAD THOTTATHIL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 33187 of 2014 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1- COPY OF DECISION NO.XI DATED 21.12.2013 TAKEN BY THE PANCHAYAT COMMITTEE OF THE 4TH RESPONDENT PANCHAYAT

EXT.P2- COPY OF THE REPRESENTATION DATED 30.04.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT. P3- COPY OF THE REPORT SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 2ND RESPONDENT.

EXT.P4- COPY OF ORDER NO.M-3510/14 DATED 02.09.2014 PASSED BY THE 2ND RESPONDENT.

EXT.P5- COPY OF ORDER NO.A7-3431/14 DATED 23.09.2014 PASSED BY THE 2ND RESPONDENT.

EXT.P6- COPY OF NOTICE NO.A7-4713/14 DATED 19.09.2014 ISSUED BY THE 5TH RESPONDENT TO THE 6TH RESPONDENT.

EXT.P7- COPY OF REPRESENTATION DATED 27.10.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

SKV

P.V.ASHA, J.

=====

W.P.(C). No.33187 OF 2014

=====

Dated this the 1st day of July, 2015

JUDGMENT

The petitioner has approached this court seeking implementation of Ext.P6 issued by the Secretary Malayattoor- Neeleshwaram Grama Panchayat - the 5th respondent, by which the 6th respondent was directed to cut and remove the trees, encroaching into the petitioner's property and likely to cause danger to the person and property of petitioner. Even though the said direction was issued on 19.9.2014 and the action was proposed under Section 238(1) of the Panchayath Raj Act 1994, no action was taken.

2. According to the 6th respondent he has cut and removed the trees. It is also submitted before this court, by the learned counsel appearing for the 6th respondent that he is ready and willing to cut and remove any branches of the trees or trees standing encroaching into the neighboring property of the petitioner, as directed.

3. Learned Standing Counsel appearing for the Panchayat submitted that they will take appropriate action in terms of Ext.P6.

4. It is seen that the 6th respondent or the Panchayat have not taken any action so far despite the order issued on 19.9.2014, in terms of Ext.P6 which was issued in terms of the order dated 2.9.2014 of the Revenue Divisional Officer. Therefore there will be a direction to respondents 4 and 5 to see that appropriate action in terms of Ext.P6 is taken without any further delay and at any rate within a period of one month from the date of receipt of a copy of this judgment.

The Writ Petition is accordingly allowed.

Sd/-
P.V.ASHA, JUDGE

SKV