

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 33638 of 2014 (D)

PETITIONER :

**THAHA, AGED 42 YEARS,
S/O. IBRAHIM, RESIDING AT CC 2/154, KALVATHY,
FORT KOCHI, KOCHI-682 001.**

BY ADV. SRI.DIPU.R

RESPONDENTS :

- 1. COCHIN PORT TRUST
REPRESENTED BY ITS CHAIRMAN, KPK MENON ROAD,
WILLINGTON ISLAND, KOCHI-682 003.**
- 2. DISTRICT COLLECTOR,
ERNAKULAM, COLLECTORATE, KAKKANADU
KOCHI-682 030.**
- 3. REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE, FORT KOCHI-682 001.**

**R1 BY SRI.K.ANAND SENIOR ADVOCATE
BY ADV. SMT.LATHA KRISHNAN
BY SRI.V.ABRAHAM MARKOS
R2 & R3 BY SENIOR GOVERNMENT PLEADER SRI.K.C. VINCENT**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 33638 of 2014 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : COPY OF NEWS ITEM PUBLISHED BY MALAYALA MANORAMA DAILY
DTD.10.12.2014.

P2 : COPY OF REPRESENTATION DTD.10.12.2014.

P3 : COPY OF RECEIPT ISSUED FROM THE 3RD RESPONDENT'S OFFICE.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 33638 of 2014

Dated this the 9th day of January, 2015

J U D G M E N T

The petitioner is stated as running a 'fish stall' under the name and style of 'T.S. Fish Stall' in the property which is admittedly stated as belonging to the 1st respondent. Grievance is with regard to the steps being taken by the respondents to evict the petitioner from the premises.

2. It is stated by the petitioner that, apprehending the steps as above, the petitioner had moved the Munsiff Court, Kochi by filing O.S. No.11/2014, but it is conceded that the prayers therein have become infructuous. On coming across Ext.P1 'News report 'as to the steps being pursued to evict the persons like the petitioner, the petitioner rushed to this Court by filing the writ petition seeking for following prayers:

- i) *Issue a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the 2nd and 3rd respondents not to evict petitioner from his fish stall with name and style T.S.Fish Stall, situated in property comprised in Sy.No.1589/1 of the Kochi village of Ernakulam District.*
- ii) *Issue a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the*

respondents to follow all due proceedings like issuing notice, providing opportunity being heard to affected persons before proceeding with eviction process.

lii) Issue a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the 2nd and 3rd respondents not to go ahead with eviction proceedings on the property and premises owned by the 1st respondent situated in the Fort Kochi Sea shore."

3. Heard the learned Government Pleader as well as the learned standing counsel appearing for the 1st respondent.

4. Absolutely, no pleading is raised, nor any document is produced to justify occupation of the premises by the petitioner. The only materials produced are Ext.P1 'news report' as to the steps for eviction, Ext.P2 representation dated 10.12.2014 and Ext.P3 which is stated as a receipt issued by the RDO before whom Ext.P2 has been preferred by the petitioner. The learned standing counsel for the 1st respondent points out that, encroachment in the area is alarmingly on increase, which is causing much nuisance and hardship to the general public and also to the 1st respondent and the State. There was wide spread allegation that clandestine deals are being struck with the officers concerned and that there was much lapse on the part of the

officers in taking necessary steps on time to evict the encroachers. The learned counsel also points out that a Public Interest Litigation is pending before the concerned Bench of this Court as WP(C) No.20531/2007 and that various interim orders have been passed at different points of time, directing the respondent/concerned authority to take necessary remedial measures to evict the unauthorised occupants.

5. Heard the learned Government Pleader as well. The learned Government Pleader points out that earnest efforts have been taken from the part of the Revenue Authorities, with the Assistance of the authorities of Corporation to evict the encroachers and that eviction has been effected as well. The petitioner was not evicted only due to the fact that the petitioner's shed is situated at 'Kayal puramboku', which is under the control of the Port Trust. It is against the steps that are being pursued by the Port Trust that the petitioner has approached this Court.

6. After hearing both the sides, this Court finds there is absolutely no merit or bonafides in the writ petition and no ground raised in the writ petition could be held as tenable.

Accordingly, interference is declined and the writ petition is dismissed. The petitioner is granted 'one weeks' time to effect vacant surrender, failing which it will be open for the respondents to cause eviction of the premises, if necessary, with the assistance of the Police.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Pn