

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 34284 of 2014 (I)

PETITIONER(S) :

KAMARUDHEEN,
AGED 50 YEARS, S/O.KASIMKUNJU,
N.K.CONSTRUCTIONS, KOTTIYAM,
KOLLAM, RESIDING AT N.K.HOUSE,
PALATHARA NAGAR-58,
THATTAMALA PO, KOLLAM 691 020.

BY ADVS.SRI.M.K.CHANDRA MOHANDAS &
SRI.M.L.JISHNU.

RESPONDENT(S) :

1. THE DISTRICT COLLECTOR,
KOLLAM - 691 001
2. THE ADDITIONAL TAHSILDAR,
KOLLAM - 691 020.
3. THE VILLAGE OFFICER,
KOLLAM EAST - 691 020.

R2 BY GOVERNMENT PLEADER SRI.ABDUL SALAM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 COPY OF THE AGREEMENT.

EXHIBIT P2 COPY OF THE CHALLAN RECEIPT DATED 28/9/2012 EVIDENCING
THE PAYMENTS.

EXHIBIT P3 COPY OF THE CHALLAN RECEIPT DATED 1/3/2014 EVIDENCING
THE PAYMENTS.

EXHIBIT P4 COPY OF THE CHALLAN RECEIPT DATED 29/3/2014 EVIDENCING
THE PAYMENTS.

EXHIBIT P5 COPY OF THE NOTICE DATED 15/11/2014.

EXHIBIT P6 COPY OF THE ORDER DATED 18/11/2014.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

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W.P.(C) No.34284 of 2014 - I

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Dated this the 15th day of June, 2015

J U D G M E N T

The petitioner admittedly was given possession of 47.56 Ares 'Puramboke' property of the Government in Re.Sy.No.1 in Block No.160 of the Kollam East Village, for installing a tar mixing plant, which was required for road surfacing work within the Kollam town. The petitioner is aggrieved with Ext.P5, which found that the petitioner had overstayed in the property and had failed to dismantle the machineries erected therein thus raising a demand for the rent and tax due.

2. A land conservancy case was also registered in which Ext.P6 order has been passed. In the proceedings before the Additional Tahsildar, the Manager of the petitioner is seen to have appeared on 25.08.2014 and it is recorded that the Manager

had submitted that before Onam, the petitioner would vacate the property. However, the undertaking having not been complied with, the petitioner was found to be in unauthorised occupation of the 'Puramboke' land and demands made for land tax as indicated in Ext.P6.

3. The learned counsel for the petitioner asserts that the petitioner has already surrendered the land. It is to be noticed that even going by Ext.P6 order, the surrender had not been effected till then. Ext.P6 is dated 18.11.2014 and the present writ petition is filed on 16.12.2014 also seeking further time to dismantle the plant from the subject property. Hence admittedly the petitioner was in occupation of the property even when the writ petition was filed. The learned Counsel for the petitioner then asserts that the petitioner had surrendered the land after the writ petition was filed, which is refuted by the learned Government Pleader.

4. In any event, Ext.P6 takes into account the rent and

the tax due on the land prior to the filing of the writ petition. On the admitted case of the petitioner, being the unauthorised occupation of the land even after the work was completed, Exts.P5 and P6 have to be upheld. In view of the assertion of the petitioner that he has now surrendered the property, the 2nd respondent shall through a competent officer verify the same and if not already surrendered, evict the petitioner from the property and also demand any tax or rent due later to Ext.P6, in accordance with law from the petitioner.

The writ petition would stand dismissed. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.