

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 34767 of 2014 (U)

PETITIONER:

DAINABI, AGED 63 YEARS,
W/O.N.M.AHAMMED, AVIKKARA, KANHANGAD,
P.O.KANHANGAD, KASARAGOD DISTRICT.

BY ADV. SRI.K.T.SHYAMAKUMAR

RESPONDENTS:

1. KANHANGAD MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, P.O.KANHANGAD,
PIN-671 315.
2. DIVISIONAL MANAGER,
SOUTHERN RAILWAY (WORKS BRANCH), PALGHAT,
P.O. OLAVAKKODE, PALAKKAD DISTRICT-679 001.

R1 BY ADV. SRI.T.K.VIPINDAS
R BY SRI.C.S.DIAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFIER, BALLA.

P2: COPY OF THE EYE SKETCH OF THE PROPERTY PREPARED BY THE VILLAGE ASSISTANT, BALLA.

P3: COPY OF THE APPLICATION FOR REGULARISATION DATED 01.12.2010 SUBMITTED BEFORE THE 1ST RESPONDENT.

P4: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 10.08.2011 BEFORE THE 2ND RESPONDENT.

P5: COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT DATED 01.08.2011.

P6: COPY OF THE COMMON JUDGMENT IN WRIT PETITION IN WPC.36922/2010 AND WPC.27083/2011 DATED 6.6.2013 OF THIS HONOURABLE COURT.

P7: COPY OF THE JUDGMENT IN WPC.30854/2012 DATED 5.3.2013.

P8: COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT TO 1ST RESPONDENT.

P9: COPY OF THE COMMUNICATION DATED 17.5.2013 ISSUED BY THE 2ND RESPONDENT TO 1ST RESPONDENT.

P10: COPY OF THE DEMAND DRAFT DATED 27.5.2013 DRAWN IN FAVOUR OF SENIOR DIVISIONAL CASHIER, SOUTHERN RAILWAY.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 34767 of 2014

Dated this the 28th day of January, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned counsel for the first respondent and the learned Standing Counsel for the 2nd respondent, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, who is desirous of having his construction regularised, applied to the first respondent through Ext.P3. The first respondent, in turn, referred the issue to the 2nd respondent, who, through Ext.P8, sought certain information from the petitioner. It has, in the meanwhile, issued Ext.P9 directing the first respondent to keep the issue of regularising the petitioner's building on hold until the 2nd respondent could complete the enquiry based on the information provided by the first respondent. Under those circumstances, the petitioner has approached this Court by filing the present writ petition.

3. Today, at the Bar, the learned Standing Counsel for the 2nd

respondent has submitted that upon enquiry, the 2nd respondent has come to a conclusion that the petitioner's property is not situated within the zone of developments being undertaken by the Railways and as such, they do not have any objection. The learned counsel for the first respondent, in turn, has submitted that if the Railways do not have any objection, the Municipality is willing to consider the petitioner's application for regularisation in accordance with law.

In the facts and circumstances, having regard to the respective submissions of the learned Counsel for the petitioner and the learned Standing Counsel, this Court disposes of the writ petition recording the submissions of the learned counsel for the 2nd respondent, as well as that of the learned counsel for the 1st respondent. This Court further directs that the first respondent shall expeditiously consider the petitioner's Ext.P3 application in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

sd/- DAMA SESHADRI NAIDU, JUDGE.

