

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 35536 of 2014 (N)

PETITIONER:

**MANAGER VELLAMUNDA A.U.P. SCHOOL
P.O.KATTAYAD, VELLAMUNDA, WAYANAD
MANATHAVADY DISTRICT, 670 731.**

**BY ADVS.SRI.JIJI THOMAS
SMT.SMITHA MATHEW**

RESPONDENT(S):

- 1. DEPUTY DIRECTOR OF EDUCATION
WAYANAD, DISTRICT – 670 001.**
- 2. SECRETARY, VELLAMUNDA GRAMA PANCHAYAT,
VELLAMUNDA, MANATHAVADY- 670 731.**
- 3. PRESIDENT, VELLAMUNDA GRAMA PANCHAYAT,
VELLAMUNDA, MANATHAVADY - 670 731.**

**R2,R3 BY ADV. SRI.K.M.FIROZ
R2,R3 BY ADV. SMT.M.SHAJNA
R2,R3 BY ADV. SRI.S.KANNAN
BY GOVERNMENT PLEADER SRI.MOHAMMED SHAFI.M.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 35536 of 2014 (N)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1 : A COPY OF THE SALE DEED NO.1367/95 DATED 29/05/1995.

EXT.P1(A): COPY OF THE POSSESSION CERTIFICATE DATED 28/1/2011.

EXT.P1(B): COPY OF THE LAND TAX RECEIPT DATED 19/7/2014.

EXT.P1(C): THE COPY OF THE SKETCH OF COMPOUND WALL

EXT.P2 : A COPY OF THE APPLICATION FOR GRANTING THE PERMISSION FOR CONSTRUCTING THE COMPOUND WALL DATED 3/10/2013 BEFORE THE 2ND RESPONDENT.

EXT.P3 : A COPY OF THE REJECTION LETTER DATED 7/10/2013 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXT.P4 : A COPY OF THE JUDGMENT IN W.P.C NO.11943/13 DATED 30/5/2014 BEFORE THIS HON'BLE COURT.

EXT.P5 : A COPY OF THE LETTER DATED 25/7/2014 ISSUED BY THE 2ND RESPONDENT

EXT.P6 : COPY OF THE REQUEST LETTER ISSUED BY THE DEPUTY DIRECTOR OF EDUCATION WAYANAD DATED 10/12/14.

RESPONDENT(S)' EXHIBITS : NIL

// TRUE COPY

P.A. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 35536 of 2014

Dated this the 5th day of January, 2015

JUDGMENT

Grievance of the petitioner is with regard to the refusal on the part of the respondent Panchayath in granting necessary sanction to enable the petitioner to construct a compound wall around the School which is situated on the side of a PWD road. The petitioner is running an Upper Primary School in the property covered by Ext.P1 sale deed bearing No. 1367/95 dated 29.05.1995. The petitioner is in exclusive possession of the property as borne by Ext.P1(a) possession certificate and Ext.P1 (b) tax receipt. Ext.P1(c) is the sketch of the compound wall proposed to be constructed.

2. The case of the petitioner is that, the compound wall already constructed by the petitioner was demolished by the Panchayath without following any procedure of law and that the petitioner has already moved the Civil Court for damages. Ext.P2 application was filed before the 2nd respondent in October, 2013 seeking for a direction to construct the compound wall, which was rejected as per Ext.P3 dated 07.10.2013. This made the petitioner to approach this Court by filing W.P.(C). No. 11943 of

2013. After hearing both the sides, the said writ petition was disposed of as per Ext.P4 judgment dated 30.05.2014 whereby Ext.P3 herein (which was produced as Ext.P9 in the said writ petition) was set aside and the 2nd respondent was directed to consider the application afresh in accordance with the procedure prescribed and to pass orders within one month as mentioned therein. The petitioner was asked to cure the defects pointed out by the Panchayath in this regard.

3. Pursuant to the judgment, the matter was considered and Ext.P5 notice was issued to the petitioner on 25.07.2014, clearly observing that the decision of the Executive Committee of the Panchayath was there already in favour of the petitioner to grant sanction for construction of compound wall. The petitioner was asked to produce various documents such as authenticated copies of the title deed, tax receipt, possession certificate, site plan, village sketch etc., along with application in Form A. According to the petitioner, the requirement has been satisfied and despite sending another reminder, no positive action has been taken by the respondent Panchayath and hence the writ petition.

4. The learned counsel for the Panchayath submits that,

the petitioner has not produced the requisite documents covered by Ext.P5 and hence the delay. If the documents are produced, the Panchayath is ready to consider the same and will finalize the matter as already directed by this Court as per Ext.P4.

5. The learned counsel for the petitioner submits that, the petitioner is ready to furnish the relevant materials as mentioned herein before, afresh. If such documents and authenticated title deed are produced before the Panchayath within two weeks from the date of receipt of a copy of this judgment, the same shall be considered and finalized as already directed by this Court vide Ext.P4 judgment, passing appropriate orders in accordance with law at the earliest, at any rate, within 'one month' thereafter. If any defect is there and if for any reason the application cannot be positively considered in favour of the petitioner, the petitioner shall be given an opportunity of hearing to explain the factual particulars. The writ petition is disposed of.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

**P.R. RAMACHANDRA MENON,
JUDGE.**