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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

MONDAY, THE 24TH DAY OF FEBRUARY 2025 / 5TH PHALGUNA, 1946

WP(C) NO. 4779 OF 2022

PETITIONERS:

1 DEITY MAHAVISHNU INSTALLED IN ELOOKKARA PULLOORPILLY SREE MOOKAMBIKA DEVI TEMPLE, REPRESENTED BY V.G. MURUKESH, AGED 38, S/O. GOPALAKRISHNA MENON, PRESIDENT, ELOOKKARA, MUPPATHADAM P.O., ALUVA-683110, RESIDING AT VALLOPPILLIL, KADUNGALLOOR VILLAGE, ELOOKKARA, MUPPATHADAM P.O., ERNAKULAM-683110.

2 ELOOKKARA PULLOORPILLY SREE MOOKAMBIKA DEVASWOM TRUST, ELOOKKARA, MUPPATHADAM P.O., ALUVA-683110, REPRESENTED BY ITS PRESIDENT V.G. MURUKESH, AGED 38, S.O. GOPALAKRISHNA MENON, VALLOPPILLIL, KADUNGALLOOR VILLAGE, ELOOKKARA, MUPPATHADAM P.O., ERNAKULAM-683110.

3 DIVAKARAN M.R.,
AGED 60 YEARS
S/O. RAVUNNI, SECRETARY, ELOOKKARA PULLOORPILLI SREE MOOKAMBIKA DEVASWOM TRUST, ELOOKKARA, MUPPATHADAM P.O., ALUVA-683110, RESIDING AT KALANGARA MANAKKAPPARAMB HOUSE, KADUNVALLOOR VILLAGE, ELOOKKARA, MUPPATHADAM P.O., ERNAKULAM-683110.

BY ADVS.
T.C.GOVINDASWAMY
KALA T.GOPI

RESPONDENTS:

1 STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF KERALA, STATE SECRETARIAT, THIRUVANANTHAPURAM-695001.

2 THE SECRETARY TO THE GOVERNMENT OF KERALA,
DEPARTMENT OF PUBLIC WORKS, STATE SECRETARIAT,
THIRUVANANTHAPURAM-695001.

3 THE SECRETARY TO THE GOVERNMENT OF KERALA,

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DEPARTMENT OF REVENUE, STATE SECRETARIAT,
THIRUVANANTHAPURAM-695001.

4 THE DISTRICT COLLECTOR,
COLLECTORATE, ERNAKULAM-692030.

5 THE EXECUTIVE ENGINEER,
PWD ROADS DIVISION, ERNAKULAM-682021.

6 THE TAHSILDAR,
TALUK OFFICE, NORTH PARAVOOR, ERNAKULAM-683513.

7 THE DEPUTY COLLECTOR (LA),
COLLECTORATE, KAKKANAD, ERNAKULAM DISTRICT-682030.

8 THE SECRETARY,
KADUNGALOOR GRAMA PANCHAYATH, MUPPATHADAOM, ERNAKULAM-683110.

9 THE VILLAGE OFFICER,
KADUNGALLOOR, ERNAKULAM DISTRICT-683110.

BY ADV DINESH MATHEW J.MURICKEN

GP- NIMA JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.02.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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JUDGMENT

Dated this the 24th day of February, 2025

The petitioners have approached this Court challenging Ext.P15 and for a declaration that the part of the PWD road in Survey No.214/9 of Kadungalloor Village is part and parcel of the 'thanathu' property settled in favour of the 1st petitioner Deity's temple as per the settlement register and that thus the 1st petitioner is entitled to get compensation in so far as the said property has been taken over by the PWD.

2. The 1st petitioner herein is a Deity consecrated and installed in Elookkara Pulloorpilly Sree Mookambika Devi Temple. The 2nd petitioner is the Eloorkkara Pulloorpilly Sree Mookambika Devaswom Trust. It is averred that the said Eloorkkara Pulloorpilly Devaswom Temple with Lord Mahavishnu as the presiding Deity, has been in existence since 500 years. The said temple is situated in Survey No.214/9 of Kadungallor Village,

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Paravoor Taluk. The entire area of 1 acre 9 cents property, is in addition to 39 cents of land in Survey No.214/8B, which also forms part and parcel of the sanctum sanctorum of the Temple. Ext.P1 settlement register would reveal that as per the erstwhile Travancore settlement, which took place more than 100 years ago, in the settlement register the above-mentioned properties in Survey No.214/8B and survey No.214/9 are shown to be properties of Pullorpilly Devaswom, and Ext.P1 would reveal that the said properties are 'Thanathu' and 'Karamozhivu'. The petitioners submit that the right of ownership, as regards the 'thanathu' lands, was considered by this Court in **Narayana pillai Madhavan Pillai vs.Kali Gomathi Amma** [2015(1) KLJ 531], and held in para 11 as follows:

> "11. In the erstwhile Travancore settlement took place more than 100 years ago. Exts.A1 and A2 are copies of the settlement registers. In these registers the plaint schedule properties are shown to be the properties of Mannadi Bhagavthy. It is further shown



> that it is 'thanathu' property. The name of Mangalath tarwad does not find a place in the settlement registers. In the Travancore State Manual published by the Government of Kerala, it is shown that 'thanathu' lands were originally government lands. 'Thanathu' lands were lands for which no pattas were issued at the last settlement and which were enjoyed by the tenants either on payment of the rent fixed at the settlement or on Kuthakapattam given by the department of government. (See Travancore State Manual, Vo.III Ch.XV, pages 192 and 193 published by the government of Kerala in 1996). In Malayalam 'thanathu' means ownership. (See Malayalam – English Dictionary published by NBS).Exts. A1 and A2 indicate that the plaint schedule properties were originally government lands, which later came in the ownership of Mannadi Bhagavathy Temple."

3. It is the case of the petitioners that, notwithstanding the above legal position regarding the right and ownership of the petitioners over the property, during the year 2016, the Kerala Public Works Department constructed a road namely Kadungalloor-Kayantikkara-Elloorkkara-Alupuram Road through the Temple properties in Survey No.214/9 without notice or payment of compensation. Thereupon, a petition was filed before the PWD authorities seeking compensation. Later on, Ext.P3 to P6 complaints were preferred. Then, the 5th respondent issued Ext.P8, intimating the



petitioners that the Trust has not produced any documents to prove that the property belonged to the Temple and thereupon directed them to produce valid documents from the revenue authorities. In the light of the said direction, an application for measurement and issuance of a sketch of the Temple 'Thanathu' property in Survey No.214/9 of Kadungalloor Village taken over for PWD road was filed before the 6th respondent Tahsildar, as evident from Ext.P9. Due to inaction on the part of the 6th respondent, Ext.P10 petition was filed before the 4th respondent District Collector. Since no action was taken on Ext.P10, the petitioners have approached this Court by filing W.P.(C.) NO.17485/2021. After hearing both sides, this Court by Ext.P11 judgment directed the District Collector to consider and pass orders on Ext.P10 request submitted by the petitioners. In implementation of the said direction, Ext.P15 order

was issued by the District Collector rejecting the claim of the petitioners.

4. The specific case of the petitioners is that, Ext.P15 order was issued based on various reports submitted by the Tahsildar (LR) on the basis of an enquiry conducted by the Village Officer etc., None of the records relied on by the District Collector to issue Ext.P15, were furnished to the petitioners. Petitioners submit that they have obtained these report as per the provisions of the Right to Information Act which is produced as Ext.P16. In the report, it is specifically stated that the road has been in existence since 1960 and at that point of time, it was the Panchayat Road. In 1980, it was converted to MLA road and in 2010, it was converted to a PWD road. A perusal of Ext.P16 report of the Village Officer, would reveal the entire finding that the said road was in existence in 1960 and later on, in 2010 was converted to PWD road etc, were all based only on a local enquiry



conducted by the Village Officer. If the road was a Panchayat Road as early as 1960, and later converted into an MLA road in 1980 and to a PWD Road in 2010, definitely records in this regard will be available with the Public Works Department and the Panchayath, which is not seen to have been perused or considered by the District Collector while issuing Ext.P15 order and the same has been issued only relying on the report submitted by the Tahsildar (LR), copy of which is produced as Ext.P16. Secondly, another stand taken by the District Collector is that no documents to substantiate the ownership of the property has been produced by the petitioners. Ext.P1 is the settlement register which clearly shows that the property is in the name of the 1st petitioner Deity, and going by the judgment of **Narayan Pillai Madhavan Pillai**(supra), the mentioning of 'Thanathu' in the settlement register denotes ownership.

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5. In view of the above and taking into consideration that the property is stated to be the property of , I am of the opinion that, the matter requires reconsideration at the hands of the 4th respondent. Accordingly, Ext.P15 is set aside with a consequential direction to the 4th respondent to reconsider Ext.P10 request submitted by the petitioner afresh. The 4th respondent shall supply copies of all documents relied on by the 4th respondent to take a decision as per Ext.P15 to the petitioners within a period of one month from the date of receipt of a copy of this judgment. To verify the exact position and age of the road in existence, the District Collector shall take into consideration the panchayat's asset register, if any, available or the documents available with the Public Works Department since it is claimed that the property has been taken over and converted to a PWD road in 2010. The petitioners shall be afforded an opportunity of being heard before taking a decision as directed

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above. A decision shall be taken within an outer limit of two months thereafter. The 4th respondent shall take appropriate action in accordance with law, if the request in Ext.P10 is in favour of the petitioners.

With the aforesaid directions, the writ petition is disposed of.

Sd/-
VIJU ABRAHAM
JUDGE

AP

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W.P.(C)NO.4779/2022(V)

The sentence "In view of the above and taking into consideration that the property is stated to be the property of, I am of the opinion that, the matter requires reconsideration at the hands of the 4th respondent." Appearing paragraph 5 of the judgment dated 24/02/2025 in W.P. (C) No.4779/2022 is corrected as "In view of the above and taking into consideration that the property is stated to be the property of the 1st petitioner Deity, I am of the opinion that, the matter requires reconsideration at the hands of the 4th respondent." As per the order dated 21/03/2025 in I.A.01/25 in W.P. (C) No.4779/2022.

Sd/-

JOINT REGISTRAR

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APPENDIX OF WP(C) 4779/2022

PETITIONER EXHIBITS

Exhibit P1	**A TRUE COPY OF THE RELEVANT PAGE OF THE SETTLEMENT REGISTER MAINTAINED BY THE REVENUE AUTHORITIES AS REGARDS THE SURVEY NO. 214/9 OF KADUNGALLOOR VILLAGE.**
Exhibit P2	**A TRUE COPY OF PETITION DATED 24/08/2019 FILED BEFORE THE 5TH RESPONDENT, EXECUTIVE ENGINEER, PWD, ROAD DIVISION, ERNAKULAM.**
Exhibit P3	**A TRUE COPY OF AN EMAIL PETITION DATED 08/10/2020 FILED BEFORE THE MINISTER OF STATE FOR PUBLIC WORKS DEPARTMENT, KERALA.**
Exhibit P4	**A TRUE COPY OF AN EMAIL PETITION DATED 25/10/2020 FILED BEFORE THE DISTRICT COLLECTOR, ERNAKULAM.**
Exhibit P5	**A TRUE COPY OF PETITION FILED ON 30/10/2020 BEFORE THE HON'BLE CHIEF MINISTER, KERALA THROUGH THE CM'S PORTAL WITH DOCKET NO. P201000716.**
Exhibit P6	**A TRUE COPY OF PETITION FILED ON 12/01/2021 BEFORE THE HON'BLE CHIEF MINISTER, KERALA THROUGH THE CM'S PORTAL WITH DOCKET NO. P 210100284.**
Exhibit P7	**A TRUE COPY OF THE STATEMENT DATED 16/03/2021 FILED BEFORE THE 5TH RESPONDENT EXECUTIVE ENGINEER PWD, ROAD DIVISION, ERNAKULAM.**
Exhibit P8	**A TRUE COPY OF THE LETTER BEARING NO. E-1527/17-209 DATED 23/*03/2021 COMMUNICATED BY THE 5TH RESPONDENT EXECUTIVE ENGINEER PWD, ROADS DIVISION, ERNAKULAM IN THE TRUST SECRETARY.**
Exhibit P9	**A TRUE COPY OF THE PETITION DATED 27/03/2021 FILED BEFORE THE 6TH RESPONDENT TAHSILDAR, NORTH PARAVOOR.**
Exhibit P10	**A TRUE COPY OF DETAILED PETITION DATED 04/08/2021 FILED BEFORE THE 4TH RESPONDENT DISTRICT COLLECTOR, ERNAKULAM.**
Exhibit P11	**A TRUE COPY OF THE JUDGMENT IN WPC NO.17485/2021 DATED 08/09/2021 RENDERED BY THIS HON'BLE COURT.**

Exhibit P12	A TRUE COPY OF THE LETTER COMMUNICATING EXHIBIT P11 DATED 21/09/2021 TO THE 4TH RESPONDENT DISTRICT COLLECTOR.
Exhibit P13	A TRUE COPY OF THE LETTER BEARING NO. C8-365933/20 DATED 08/11/2021 ISSUED BY THE DISTRICT COLLECTOR INVITING THE THIRD PETITIONER FOR A HEARING ON THE MATTER ON 17/11/2021.
Exhibit P14	A TRUE COPY OF THE STATEMENT DATED 17/11/2021 FILED BY THE PETITIONERS ALONG WITH ITS ENCLOSURES.
Exhibit P15	A TRUE COPY OF THE ORDER BEARING NO. C8-365933/20 DATED 21/12/2021 INDICATING THAT THE CLAIM OF THE PETITIONERS' STANDS REJECTED.
Exhibit P16	A TRUE COPY OF THE REPORT BEARING NO. G2/4137/2021 DATED 09/12/2021 FROM THE TAHSILDAR (LR) NORTH PARAVOOR, REFERRED TO IN EXHIBIT P15 ALONG WITH ENCLOSURES.
Exhibit P17	A TRUE COPY OF THE REPORT BEARING NO. A9-3816/2021 DATED 25/10/2021 FROM THE EXECUTIVE ENGINEER, PWD ROADS DIVISION, ERNAKULAM.
Exhibit P18	A TRUE COPY OF THE BEARING NO. A1/EKMGL/4596/2020 DATED 15/11/2021 FROM THE EXECUTIVE ENGINEER PWD ROADS DIVISION ERNAKULAM, REFERRED TO EXHIBIT P15.
Exhibit P19	A TRUE COPY OF LETTER BEARING NO.A5/7991/2021 DATED 27/12/2021 ISSUED BY THE SECRETARY, KADUNGALLOOR GRAMA PANCHAYATH.
Exhibit P20	A TRUE COPY OF THE JUDGMENT OF THE HON'BLE ADDITIONAL SUB COURT, NORTH PARAVOOR IN AS NO. 2/2019 DATED 15/01/2020.
Exhibit P-21	A TRUE COPY OF THE LETTER DATED 03.11.2022 ADDRESSED TO THE PUBLIC INFORMATION OFFICER KADUNGALLOOR AND ALSO THE REPLY BEARING NO.10/2022 DATED 21.11.2022 ISSUED BY THE VILLAGE OFFICER/PUBLIC INFORMATION OFFICER