

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

MONDAY, THE 19TH DAY OF FEBRUARY 2024 / 30TH MAGHA, 1945

WP(C) NO. 21897 OF 2022

PETITIONER:

AKHIL LOUIZ
AGED 25 YEARS
S/O K. GEORGE LOUIZ,
KUNDUNGAMPARAMBIL HOUSE, CHERIYAKADAVU MURI,
PALLURUTHI VILLAGE, KANNAMALI P O,
KOCHI, PIN-682 008,
REP. BY HIS POWER OF ATTORNEY HOLDER AND MOTHER SHINE
GEORGE, W/O K GEORGE LOUIZ, AGED 51,
KUNDUNGAMPARAMBIL, HOUSE, CHERIYAKADAVU MURI,
PALLURUTHI VILLAGE, KANNAMALI P O,
KOCHI, PIN-682 008.

BY ADVS.
B.ASHOK SHENOY
SHIJU VARGHESE

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR, ERNAKULAM
CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN- 682035.
- 2 THE ADDITIONAL DISTRICT MAGISTRATE,
ERNAKULAM, CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN 682035.
- 3 THE TAHASILDAR,
TALUK OFFICE, NORTH PARAVOOR,
ERNAKULAM, PIN- 683513.
- 4 THE TALUK SURVEYOR,
TALUK OFFICE, NORTH PARAVOOR,
ERNAKULAM, PIN 683513.
- 5 THE VILLAGE OFFICER,
MOOTHAKUNNAM VILLAGE OFFICE,
NORTH PARAVOOR, ERNAKULAM, PIN -683513.

6 THE TAHASILDAR (LAND RECORDS),
TALUK OFFICE, NORTH PARAVOOR,
ERNAKULAM, PIN -683513.

BY ADV.SRI.ASWIN SETHUMADHAVAN, SR.GOVERNMENT
PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.02.2024, ALONG WITH WP(C).13004/2023, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE VIJU ABRAHAM

MONDAY, THE 19TH DAY OF FEBRUARY 2024 / 30TH MAGHA, 1945

WP (C) NO. 13004 OF 2023

PETITIONER:

AKHIL LOUIZ
AGED 25 YEARS
AKHIL LOUIZ, S/O K GEORGE LOUIZ, AGED 25,
KUNDUNGAMPARAMBIL, HOUSE, CHERIYAKADAVU MURI,
PALLURUTHI VILLAGE, KANNAMALI P O,
KOCHI, PIN- 682008
REP. BY HIS POWER OF ATTORNEY HOLDER AND MOTHER
SHINE GEORGE, W/O K GEORGE LOUIZ, AGED 51,
KUNDUNGAMPARAMBIL, HOUSE, CHERIYAKADAVU MURI,
PALLURUTHI VILLAGE, KANNAMALI P O,
KOCHI, PIN - 682008

BY ADVS.
SHIJU VARGHESE
SACHU THOMAS

RESPONDENTS:

- 1 DISTRICT COLLECTOR, ERNAKULAM
CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN - 682035
- 2 THE ADDITIONAL DISTRICT MAGISTRATE,
ERNAKULAM, CIVIL STATION, KAKKANAD, ERNAKULAM,
PIN - 682035
- 3 THE TAHASILDAR
TALUK OFFICE, NORTH PARAVOOR,
ERNAKULAM, PIN - 683513
- 4 THE TALUK SURVEYOR
TALUK OFFICE, NORTH PARAVOOR,

ERNAKULAM, PIN - 683513

5 THE VILLAGE OFFICER
MOOTHAKUNNAM VILLAGE OFFICE,
NORTH PARAVOOR, ERNAKULAM, PIN - 683513

6 THE TAHASILDAR (LAND RECORDS)
TALUK OFFICE, NORTH PARAVOOR,
ERNAKULAM, PIN - 683513

BY ADV.SRI.ASWIN SETHUMADHAVAN, SR.GOVERNMENT
PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.02.2024, ALONG WITH WP(C).21897/2022, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 19th day of February, 2024

W.P.(C) No.21897 of 2022 is filed challenging Ext.P25 notice dated 20.06.2022 whereby the proceedings under the Kerala Land Conservancy Act, 1957 was initiated against the petitioner's property taking a stand that the petitioner had encroached upon Government puramboke land. W.P.(C) No.13004 of 2023 is filed challenging Ext.P34 order dated 05.11.2022 rejecting the application for NOC for starting a petroleum outlet.

2. Learned Government Pleader submits that the application for NOC was rejected taking a stand that the land for which NOC sought for is a part of the Government puramboke.

3. Learned counsel for the petitioner submits that a fresh survey may be conducted with notice to the petitioner and based on the outcome of the survey, a decision may be taken on the application for issuance of NOC.

In view of the facts and circumstances, these Writ Petitions are disposed of with a direction to the sixth

respondent in W.P.(C) No.13004 of 2023 to conduct a fresh survey of the property covered by Ext.P1 sale deed with notice to the petitioner and any other affected parties and finalise the proceedings within an outer limit of two months from the date of receipt of a copy of the judgment. Subject to the outcome of the survey, Ext.P5 application dated 25.11.2020 for NOC produced in W.P.(C) No.13004 of 2023 shall be reconsidered by the second respondent – Additional District Magistrate (ADM) and pass appropriate orders thereon. Till a decision is taken as directed above, all further proceedings pursuant to Ext.P25 in WP(C) No.21897 of 2022 shall be kept in abeyance. So as to facilitate a reconsideration of the matter, Ext.P34 is set aside.

Sd/-

**VIJU ABRAHAM
JUDGE**

csl

APPENDIX OF WP (C) 13004/2023

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE SALE DEED NO.1992/2020 DATED 25.9.2020
Exhibit P2	TRUE COPY OF THE LAND TAX RECEIPT DATED 8.4.2022
Exhibit P3	TRUE COPY OF THE POSSESSION CERTIFICATE DATED 11.1.2021
Exhibit P4	TRUE COPY OF THE LOCATION SKETCH NO. 21/2020
Exhibit P5	TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 25.11.2020
Exhibit P6	TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DATED 31.3.2021
Exhibit P7	TRUE COPY OF THE REPORT ISSUED BY THE 3RD RESPONDENT DATED 26.7.2021
Exhibit P8	TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DATED 18.8.2021
Exhibit P9	TRUE COPY OF THE REPORT SUBMITTED BY THE 5TH RESPONDENT DATED 28.9.2021
Exhibit P10	TRUE COPY OF THE SALE DEED NO. 1563/1994 DATED 21.2.1994
Exhibit P11	TRUE COPY OF THE SALE DEED NO.2885/2003 DATED 30.5.2003
Exhibit P12	TRUE COPY OF THE JETTY LICENSE ISSUED BY THE PORT CONSERVATOR, BEARING NO.850/2020 DATED 11.11.2020
Exhibit P13	TRUE COPY OF THE SITE PLAN

- Exhibit P14 TRUE COPY OF THE REPORT WITH THE SKETCH
ISSUED BY THE 4TH RESPONDENT DATED
22.11.2021
- Exhibit P15 TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.
26379/2021 DATED 3.12.2021
- Exhibit P16 TRUE COPY OF THE PROCEEDINGS BEARING NO.
DCEKM/131/2021-M4, DATED 5.1.2022
- Exhibit P17 TRUE COPY OF THE NOC BEARING NO. D DIS.
38352/11/M4 WITH ITS PROCEEDINGS OF THE
2ND RESPONDENT DATED 14.6.2013
- Exhibit P18 TRUE COPY OF THE POSSESSION CERTIFICATE
BEARING NO. K. DIS-9096/D2/2010 DATED
12.10.2010
- Exhibit P19 TRUE COPY OF THE PATTAYAM NO. PF 53/1994
DATED 21.1.1994
- Exhibit P20 TRUE COPY OF THE THANDAPER ACCOUNT ISSUED
BY THE 5TH RESPONDENT DATED 7.12.2021
- Exhibit P21 TRUE COPY THANDAPER REGISTER ISSUED BY THE
5TH RESPONDENT
- Exhibit P22 TRUE COPY OF THE REVENUE PARTICULARS
COVERED BY EXT.P1, AVAILABLE IN THE
WEBSITE OF THE REVENUE DEPARTMENT
- Exhibit P23 TRUE COPY OF THE PURAMBOKE LAND
PARTICULARS, AVAILABLE IN THE WEBSITE
PERTAINING TO THE MOOTHAKUNNAM VILLAGE
- Exhibit P24 TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.
2735/2022 DATED 13.4.2022
- Exhibit P25 TRUE COPY OF THE NOTICE BEARING NO.LC/ D5
-1336 /2022 DATED 20.6.2022

- Exhibit P26 TRUE COPY OF THE DIRECTION ISSUED BY THE
2ND RESPONDENT BEARING NO. 1/134147/2022
IN DCEKM/131/2021-M4 DATED 14.6.2022
- Exhibit P27 TRUE COPY OF THE 2ND DIRECTION ISSUED BY
THE 2ND RESPONDENT BEARING
NO.1/134147/2022 IN DCEKM/131/2021-M4
DATED 14.6.2022 AND RECEIVED BY THE 6TH
RESPONDENT ON 18.6.2022
- Exhibit P28 TRUE COPY OF THE LETTER BEARING NO.D5-
1136/2022 ISSUED BY THE 6TH RESPONDENT
DATED 15.6.2022
- Exhibit P29 TRUE COPY OF THE ORDER ALONG WITH FORM C
UNDER THE LAND CONSERVANCY ACT 1957
BEARING NO. D5-1136/2022 DATED 14.7.2022
- Exhibit P30 TRUE COPY OF THE NOTICE BEARING NO. D5-
1136/2022 DATED 13.7.2022
- Exhibit P31 TRUE COPY OF THE ORDER IN W.P.(C)
NO.21897/2022 DATED 29.7.2022
- Exhibit P32 TRUE COPY OF ARGUMENT NOTES DATED
14.6.2022
- Exhibit P33 TRUE COPY OF THE PROCEEDINGS BEARING NO.
DC EKM /131/2021-M4 DATED 21.7.2022
- Exhibit P34 TRUE COPY OF THE ORDER DATED 5.11.2022

APPENDIX OF WP (C) 21897/2022

PETITIONER'S EXHIBITS

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|-------------|--|
| Exhibit P1 | TRUE COPY OF THE SALE DEED NO.1992/2020
DATED 25.9.2020 OF THE PARAVOOR SRO. |
| Exhibit P2 | TRUE COPY OF THE LAND TAX RECEIPT DATED
8.4.2022. |
| Exhibit P3 | TRUE COPY OF THE POSSESSION CERTIFICATE
DATED 11.1.2021. |
| Exhibit P4 | TRUE COPY OF THE LOCATION SKETCH NO.
21/2020. |
| Exhibit P5 | TRUE COPY OF THE APPLICATION DATED
25.11.2020 SUBMITTED BY THE PETITIONER
FOR NOC. |
| Exhibit P6 | TRUE COPY OF THE LETTER DATED 31.3.2021
ISSUED BY THE 1ST RESPONDENT. |
| Exhibit P7 | TRUE COPY OF THE REPORT DATED 26.7.2021
ISSUED BY THE 3RD RESPONDENT. |
| Exhibit P8 | TRUE COPY OF THE LETTER DATED 18.8.2021
ISSUED BY THE 1ST RESPONDENT. |
| Exhibit P9 | TRUE COPY OF THE REPORT DATED 28.9.2021
SUBMITTED BY THE 5TH RESPONDENT. |
| Exhibit P10 | TRUE COPY OF SALE DEED NO. 1563/1994
DATED 21.2.1994 OF THE PARAVOOR SRO. |
| Exhibit P11 | TRUE COPY OF SALE DEED NO. 2885/2003
DATED 30.5.2003 OF THE PARAVOOR SRO. |
| Exhibit P12 | TRUE COPY OF THE JETTY LICENSE BEARING
NO.850/2020 DATED 11.11.2020 |
| Exhibit P13 | TRUE COPY OF THE SITE PLAN. |

- Exhibit P14 TRUE COPY OF THE REPORT DATED 22.11.2021 WITH THE SKETCH ISSUED BY THE 4TH RESPONDENT.
- Exhibit P15 TRUE COPY OF THE JUDGMENT DATED 3.12.2021 IN W P NO. 26379/2021.
- Exhibit P16 TRUE COPY OF THE PROCEEDINGS BEARING NO.DC EKM/131/2021 - M4, DATED 5.1.2022.
- Exhibit P17 TRUE COPY OF THE NOC BEARING NO. D DIS. 38352/11/M4 DATED 14.6.2013 WITH ITS PROCEEDINGS OF THE 2ND RESPONDENT.
- Exhibit P18 TRUE COPY OF POSSESSION CERTIFICATE BEARING NO. K. DIS-9096/D2/2010 DATED 12.10.2010.
- Exhibit P19 TRUE COPY OF THE PATTAYAM NO. PF 53/1994 DATED 21.1.1994.
- Exhibit P20 TRUE COPY OF THE THANDAPER ACCOUNT DATED 7.12.2021 ISSUED BY THE 5TH RESPONDENT.
- Exhibit P21 TRUE COPY OF THE THANDAPER REGISTER OF THE PROPERTY ISSUED BY THE 5TH RESPONDENT.
- Exhibit P22 TRUE COPY OF THE REVENUE PARTICULARS OF THE PROPERTY COVERED BY EXT.P1 AVAILABLE IN THE WEB SITE OF THE REVENUE DEPARTMENT.
- Exhibit P23 TRUE COPY OF THE PURAMBOKE LAND PARTICULARS AVAILABLE IN THE WEB SITE PERTAINING TO THE MOOTHAKUNNAM VILLAGE.
- Exhibit P24 TRUE COPY OF THE JUDGMENT IN W P (C) NO. 2735/2022 DATED 13.4.2022.
- Exhibit P25 TRUE COPY OF THE NOTICE BEARING NO.LC/ D5

-1336 /2022 DATED 20.6.2022 ISSUED BY THE 6TH RESPONDENT.

Exhibit P26 TRUE COPY OF THE DIRECTION ISSUED BY THE 2ND RESPONDENT BEARING NO. 1/134147/2022 IN DCEKM/131/2021-M4 DATED 14-6-2022.

Exhibit P27 TRUE COPY OF THE DIRECTION ISSUED BY THE 2ND RESPONDENT BEARING NO.1/134147/2022 IN DCEKM/131/2021-M4 DATED 14-6-2022 RECEIVED BY THE 6TH RESPONDENT ON 18-6-2022.

Exhibit P28 TRUE COPY OF THE LETTER BEARING NO.D5-1136/2022 DATED 15-6-2022 ISSUED BY THE 6TH RESPONDENT.

Exhibit P29 TRUE COPY OF THE NOTICE ISSUED BY THE 6TH RESPONDENT BEARING NO.D5-1136/2022 DATED 13-7-2022.

Exhibit P30 TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 9-6-2022.

Exhibit P31 TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT BEARING NO.DCEKM/131/2021-M4, DATED 21/07/2022.

Exhibit P32 TRUE COPY OF THE ORDER ALONG WITH FORM C UNDER THE LAND CONSERVANCY ACT 1957 BEARING NO. D5- 1136/2022 DATED 14.7.2022.

RESPONDENTS' EXHIBITS

EXHIBIT R6(a) TRUE COPY OF THE REPORT SUBMITTED BY THE VILLAGE OFFICER TO THE TAHSILDAR (LR) NORTH PARAVOOR DATED 16.06.2022.

EXHIBIT R6(b) TRUE COPY OF THE STATEMENT SIGNED BY SHIJU VARGHESE DATED 05.07.2022.