

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY ,THE 10TH DAY OF DECEMBER 2018 / 19TH AGRAHAYANA, 1940

WP(C) .No. 18416 of 2015

PETITIONER/S:

SAJIN.N.M
SANJEEVINI HOUSE, PILASSERY P O, KUNNAMANGALAM,
KOZHIKODE DISTRICT, PIN 673571

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENT/S:

- 1 THE SECRETARY
KUNNAMANGALAM GRAMA PANCHAYATH, KUNNAMANGALAM P O,
KOZHIKODE, PIN 673571
- 2 THE REVENUE DIVISIONAL OFFICER
KOZHIKODE PIN 673001
- 3 THE VILLAGE OFFICER
VILLAGE OFFICE, KUNNAMANGALAM, KOZHIKODE, PIN 673571
- 4 THE CHARIMAN
DISTRICT LEVEL ORGANISING COMMITTEE, UNDER THE KERALA
CONSERVATION AND PADDY LAND AND WET LAND ACT, 2008,
KOKZHKODE (SUB COLLECTOR, KOZHIKODE) PIN 673001
- 5 THE AGRICULRUAL OFFICER
KUNNAMANGALAM, KUNNAMANGALAM P O, KOZHIKODE, PIN
673571
- *6 ADDL. R6- P.GANESAN,
AGED 54 YEARS
S/O.CHOYI, VAPPANATTU HOUSE, P.O. PILASSERY,
KUNNAMANGALAM, KOZHIKODE DISTRICT.

*ADDITIONAL R6 IS IMPEADED AS PER ORDER DATED
9/9/2015 IN IA 10962/15

R1 BY SRI. V.K.MOHAMMED YOUSUF
R2 TO R5 BY SMT.RAJI.T.BHASKAR, GP
ADDL.R6 BY ADVS.SRI.ABDUL HAMEED (NALAKATH)

SRI.V.N.RAMESAN NAMBISAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10.12.2018, ALONG WITH WP(C) .23246/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

JUDGMENT

Captioned writ petitions are materially connected in respect of a building permit secured by the petitioner in W.P.(C).No.18416/2015, therefore, I heard them together and propose to pass this common judgment.

2. In W.P.(C).No.18416/2015, petitioner is challenging Ext.P12 stop memo issued by the Village Officer, Kunnamangalam dated 10.06.2015, whereby, petitioner was directed to stop the construction carried out on account of the directions issued by the Revenue Divisional Officer concerned.

3. In W.P.(C).No.23246/2015, the petitioner is opposing building permit granted to the petitioner in the other writ petition and seeks a direction to take appropriate steps to stop the construction activities carried on by the petitioner.

4. During the pendency of this writ petition, petitioner in W.P.(C).NO.18416/2015 has submitted Ext.P18 application before the 4th respondent seeking removal of the property from the data bank constituted as per the provisions of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 and also Ext.P19

application before the 2nd respondent seeking permission for utilization of the property for other purposes other than paddy cultivation and agricultural operations.

5. I have heard learned counsel for the petitioners in the writ petitions, learned Government Pleader as well as the Standing Counsel appearing for the Kunnamangalam Grama Panchayat and perused the pleadings and the documents on record.

6. In my considered view, if a decision is taken by the statutory authority in Exts.P18 and P19 applications, it would resolve the problems raised by the petitioner in W.P.(C).No.18416/2015. In that view of the matter, there will be a direction to the 4th respondent to consider Ext.P18 application submitted by the petitioner in accordance with law and attain finality to the same at the earliest, and at any rate, within three months from the date of receipt of a copy of this judgment. If the petitioner is producing necessary enabling orders as directed above, Ext.P19 shall be considered by the 2nd respondent in accordance with law and attain finality at the earliest, and at any rate, within three months from the date of production of the order from the Local Level

Monitoring Committee.

7. When W.P.(C).No.23246/2015 was admitted to the files of this court, an interim order was passed by this court on 17.09.2015, directing to put on hold the construction activities carried out by the petitioner in W.P.(C).No.18416/2015 and the said order is still in force. In that view of the matter, if the petitioner is producing necessary enabling orders from the statutory authorities as directed above, the petitioner in W.P.(C).No.23246/2015 shall be issued with a notice by the 3rd respondent. The issue with respect to the stop memo as per Ext.P12 in the said writ petition shall be considered by the 3rd respondent and finalize the same after securing necessary participation of both the petitioners in the writ petitions at the earliest possible, and at any rate, within one month from the date of production of the order from the statutory authorities.

The writ petitions are disposed of, accordingly.

Sd/-

SHAJI P.CHALY

JUDGE

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11.12.2018

APPENDIX OF WP(C) 18416/2015**PETITIONER'S/S EXHIBITS:**

EXHIBIT P1	TRUE COPY OF SALE DEED NO 1337/2014 DTD 7/4/2014 OF THE SUB REGISTRAR OFFICE, CHATHAMANGALAM
EXHIBIT P2	TRUE COPY OF CERTIFICATE ISSUED BY 3RD RESPONDENT ON 28/2/2014
EXHIBIT P3	TRUE COPY OF THE BUILDING PERMIT DTD 23/2/2011 ISSUED BY THE 1ST RESPONDENT
EXHIBIT P4	TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DTD 7/5/2014
EXHIBIT P5	TRUE COPY OF THE APPLICATION DTD 8/5/2014 SUBMITTED BEFORE THE 2ND RESPONDENT
EXHIBIT P5 A	TRUE COPY OF THE APPLICATION DTD 20/5/2014 SUBMITTED BEFORE THE 4TH RESPONDENT
EXHIBIT P5 B	TRUE COPY OF THE APPLICATION DTD 22/5/2014 SUBMITTED BEFORE THE 5TH RESPONDENT
EXHIBIT P5 C	TRUE COPY OF THE AFFIDAVIT DTD 21/5/2014 SUBMITTED BEFORE THE 5TH RESPONDENT
EXHIBIT P6	TRUE COPY OF THE ORDER DTD 12/12/2014 ISSUED BY THE 4TH RESPONDENT
EXHIBIT P7	PHOTOGRAPH SHOWING THE NATURE AND LIE OF THE PROPERTY OF THE PETITIONER
EXHIBIT P8	TRUE COPY OF THE ORDER PASSED BY THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN APPEAL NO 629/2014 DTD 10/2/2015
EXHIBIT P9	TRUE COPY OF THE JUDGMENT DTD 9/4/2015 PASSED BY THIS HON'BLE COURT IN WPC 12011/2015
EXHIBIT P10	EXT P10: TRUE COPY OF THE NOTICE DTD 2/6/2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER

EXHIBIT P11 TRUE COPY OF THE EXPLANATION DTD
6/6/2015 SUBMITTED BY THE PETITIONER

EXHIBIT P12 EXT P12:TRUE COPY OF THE MEMO DTD
10/6/2015 ISSUED BY THE 3RD RESPONDENT

EXHIBIT P13 TRUE COPY OF THE MEMO DTD 22/4/2014
ISSUED BY 3RD RESPONDENT

EXHIBIT P14 TRUE COPY OF THE GIFT DEED DTD 7/6/2004
OF THE CHATHAMANGALAM SUB REGISTRAR
OFFICE

EXHIBIT P15 TRUE COPY OF THE APPLICATION DATED
7/9/2015 SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT .

EXHIBIT P16 TRUE COPY OF THE RELEVANT EXTRACT OF
THE FAIR VALUE REGISTER OF THE
KUNNAMANGALAM VILLAGE .

EXHIBIT P17 TRUE COPY OF THE RELEVANT EXTRACTS OF
THE GOVERNMENT NOTIFICATION DATED
14/12/2009

EXHIBIT P18 TRUE COPY OF THE APPLICATION DATED
21/7/2017 SUBMITTED BY THE PETITIONER
BEFORE THE 4TH RESPONDENT .

EXHIBIT P19 TRUE COPY OF THE APPLICATION DATED
5/3/2018 SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT .

RESPONDENT'S EXHIBITS:NIL

//TRUE COPY//

P.A. TO JUDGE

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