

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 30TH JANUARY 2009 / 10TH MAGHA 1930

WP(C).No. 2903 of 2009(U)

PETITIONER(S):

- 1. BABU, S/O. ANTHRU, PAZHAMBILLIL,
XXV/567, OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 2. N.M.PAREETH, NADAPPADA,
XXV/564, OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 3. MAMACHAN JOSEPH, ELICHIRA
XXV/561 & 562 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 4. FOWMIC V.SUBAIR, VALIYAPARAMBIL,
XXV/570, OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 5. P.P.ABUBACKER, PULICKAL,
XXV/548 & 549 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 6. ALIYAR, S/O.MOIDEEN KRAKKUDY,
XXV/555 & 556 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 7. ASSAINAR, S/O. MOIDEEN, INJAKKUZHY,
XXV/553 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 8. M.M.SAINUDHEEN, MONIKATTIL,
XXV/566 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 9. K.S.ALIYAR, KANJIRAMOLEL HOUSE
XXV/550, OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 10. JOSEPH JOSEPH, PEECHATTUKUDIYIL HOUSE
XXV/560 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 11. PHILOMINA SEBASTIAN, KATTUKUDIYIL
XXV/551 & 552 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 12. MOIDEEN HASSAN, KARAKKUZHY,
XXV/557 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**
- 13. M.N.PANKAJAKSHAN, KALLARACKAL PUTHENPURA
XXV/568 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.**

14. EBRAHEEM, KOTTAYIL,
XXV/558 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.
 15. SAKKEER V.M., S/O. MOHAMMED
XXV/569 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.
 16. ABDUL KAREEM, S/O. EBRAHIM, MULLATTU HOUSE
XXV/571 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.
 17. K.M. MOIDEEN, VATTAKUDY,
XXV/563 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.
 18. MOIDEEN MUHAMMED, IKKARAKUDY,
XXV/554 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.
 19. SHALLOT BABY, KOCHUPARAMBIL HOUSE
XXV/565 OPP. GOVT. HOSPITAL, KOTHAMANGALAM.
 20. P.M. SAKHIR HUSSAIN, PALANTHIKAL,
XXV/546 & 547 OPP. GOVT. HOSPITAL, KOTHAMANGALAM
- BY ADV. SRI.T.RAMPRASAD UNNI
SRI.J.R.PREM NAVAZ

RESPONDENT(S):

1. THE DISTRICT COLLECTOR, ERNAKULAM.
2. THE TAHSILDAR, TALUK OFFICE,
KOTHAMANGALAM.
3. THE ADDITIONAL TAHSILDAR, TALUK OFFICE
KOTHAMANGALAM.
4. THE ASSISTANT EXECUTIVE ENGINEER
PWD ROADS SUB DIVISION, KOTHAMANGALAM.

GOVT. PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/01/2009, ALONG WITH WPC NO.3142 OF 2009, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) NOs. 2903 & 3142 OF 2009

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Dated this the 30th day of January, 2009

J U D G M E N T

The petitioners in these cases are aggrieved by the notices issued by the Assistant Executive Engineer, PWD Roads Sub Division, Kothamangalam dated 22/1/2009 requiring the petitioners to vacate from the premises mentioned therein and informing them that on failure to do so, they will be evicted from the places invoking the provisions of the Kerala Land Conservancy Act and the Rules framed thereunder.

2. Admittedly, under the provisions of the Kerala Land Conservancy Act, the District Collector is required to pass orders and communicate the same, in which case, statutory remedies are also provided to the affected parties. However, a reading of the notice dated 22/1/2009 produced as Ext.P4 in WPC No.2903/09 and Ext.P6 in WP(C) No.3142/2009 show that this procedure has not been complied with.

3. Moreover, today, the learned Government Pleader has produced before me an order dated 18/12/2008 passed by the District Collector exercising his powers under the Kerala Land Conservancy Act. Learned Government Pleader however fairly conceded that the said proceedings have not been communicated to the affected parties. If that

be so, the proceedings as reflected by the notices referred to above is certainly a premature one.

4. Therefore, the writ petitions are disposed of with the following directions:

(1) That the District Collector, Ernakulam shall communicate copy of the order dated 18/12/2008 to the petitioners herein. This shall be done, as expeditiously as possible, at any rate within 2 weeks from today.

(2) It is directed that on receipt thereof, it will be open to the petitioners to pursue the statutory remedies that are available and obtain appropriate interlocutory orders from the authorities concerned.

(3) It is directed that in order to enable the petitioners to pursue the matter as above, proceedings pursuant to the notices dated 22/1/2009 referred to above shall be kept in abeyance for a period of four weeks from today.

ANTONY DOMINIC, JUDGE

Rp