

Thomas Michael Vs. State of Kerala

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Court : Kerala

Decided On : Jan-30-2014

Judge : Honourable Mr.Justice K.Surendra Mohan

Appellant : Thomas Michael

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN THURSDAY, THE 30TH DAY OF JANUARY 2014 10TH MAGHA, 1935 WP(C).No. 31553 of 2011 (T) ----- PETITIONER: ----- THOMAS MICHAEL, S/O.JOSEPH MICHAEL, MANARKATTU HOUSE, PALA.P.O, MEENACHIL VILLAGE, KOTTAYAM DISTRICT. BY ADV. SRI.P.KURUVILLA JACOB RESPONDENT(S): ----- 1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF KERALA, SECRETARY BUILDING, THIRUVANANTHAPURAM, PIN - 695 001.

2. THE PRINCIPAL SECRETARY, PUBLIC WORKS DEPARTMENTS, SECRETARIAT BUILDING, THIRUVANANTHAPURAM, PIN - 695 001.

3. THE PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT BUILDING, THIRUVANANTHAPURAM, PIN - 695 001.

4. THE EXECUTIVE ENGINEER,PUBLIC WORKS DEPARTMENT, ROADS DIVISION, KOTTAYAM PIN-686001.
5. THE ASSISTANT EXECUTIVE ENGINEER, PUBLIC WORKS DEPARTMENT, ROADS DIVISION, PALA.P.O KOTTAYAM DISTRICT, PIN-686575.
6. THE DISTRICT COLLECTOR, KOTTAYAM, PIN-686001. R1-6 BY SPL.GOVERNMENT PLEADER SRI C.S.MANILAL THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30.01.2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 31553 of 2011 (T) A P P E N D I X PETITIONER'S EXHIBITS EXT.P1: TRUE COPY OF THE LAND TAX RECEIPT DATED 4.11.2011 ISSUED TO PETITIONER FROM MEENACHIL VILAGE OFFICE, RELATING TO PETITIONER'S TWO ITEMS OF PROPERTIES INCLUDING HIS RESIDENTIAL PROPERTY. EXT.P2: TRUE COPY OF THE LAND TAX RECEIPT DATED 4.11.2011 ISSUED TO PETITIONER FROM MEENACHIL VILAGE OFFICE, RELATING TO PETITIONER'S 0.1140 ARES COMPRISED IN SY.NO.161/76 OF MEENACHIL VILLAGE. EXT.P3(a): TRUE RECENT PHOTOGRAPH INDICATING THE CAR-PORCH AND FRONT PORTION OF PETITIONER'S RESIDENTIAL HOUSE AND THE ALIGNMENT OF MUTHOLY-BHARANANGANAM HIGHWAY RECENTLY FIXED BY 5TH RESPONDENT, THROUGH PETITIONER'S RESIDENTIAL PROPERTY. EXT.P3(b): TRUE RECENT PHOTOGRAPH INDICATING PETITIONER'S OFFICE BUILDING LOCATED IN FRONT OF HIS HOUSE IN THE PROPERTY COMPOUND IN SY.161/76 OF MEENACHIL VILLAGE. EXT.P3(c): TRUE RECENT PHOTOGRAPH INDICATING THE FRONT VIEW OF PETITIONER'S HOUSE, THE COMPOUND WALL IN FRONT AND THE HEIGHT OF THE RESIDENTIAL PROPERTY FROM THE NEARBY PALA-MUTHOLY PUBLIC ROAD. EXT.P4: TRUE COPY OF THE LOCATION PLAN DRAWN BY THE VILLAGE OFFICER MEENACHIL ON 12.12.2002 INDICATING PETITIONER'S THREE ITEMS OF PROPERTIES IN MEENACHIL VILLAGE COVERED BY EXTS P1 AND P2 TAX RECEIPTS. EXT.P5: TRUE COPY OF THE REPLY DATED 31.08.2011 OF 5TH RESPONDENT COMMUNICATED TO PETITIONER. EXT.P5(A): TRUE COPY OF PETITIONER'S APPLICATION DATED 17.08.2011 SUBMITTED TO 5TH RESPONDENT UNDER THE RIGHT TO INFORMATION

ACT. EXT.P6: TRUE COPY OF THE REPORT OBTAINED BY 2D RESPONDENT IN CONNECTION WITH THE CONSTRUCTION OF PALA RING-ROAD. EXT.P7: TRUE COPY OF THE RELEVANT PORTION OF THE NEWS PUBLISHED IN THE MANGALAM DAILY, DATED 17.07.2011 RELATING TO CHERPUNKAL-BHARANANGANAM HIGHWAY. EXT.P8: TRUE COPY OF THE SATELLITE-PHOTO SKETCH OF THE REGION, INDICATING THE PROPOSED ROUTE OF MUTHOLY-BHARANANGANAM HIGHWAY AND THE PRESENT ROUTE OF ETTUMANNOOR-ERATTUPETTA -POONJAR HIGHWAY PASSING PARALLEL TO THE PROPOSED ROUTE OF MUTHOLY BHARANANGANAM, HIGHWAY. EXT.P9: TRUE COPY OF PETITIONER'S REGISTERED COMPLAINT DATED 25.8.2011 FORWARDED TO RESPONDENT 1 TO 4. EXT.P10: TRUE COPY OF 2D RESPONDENT'S GOVT.

ORDER

DATED 14.7.2009 GRANTING ADMINISTRATIVE SANCTION FOR SOME ROAD WORKS UNCLUDING MUTHOLY-BHARANANGANAM HIGHWAY. EXT.P11: TRUE COPY OF THE NEWS REPORTED IN THE MALAYALA MANORAMA ONLINE DT.25.2.12. EXT.P12: TRUE COPY OF THE NEWS PUBLISHED IN THE MALAYALA MANORAMA ONLINE DT.3.4.12. WP(C).No. 31553 of 2011 (T) :- 2:- EXT.P13: TRUE COPY OF NOTIFICATION NO.B1 1333 DT.19.12.11 ISSUED UNDER SECTION 61) OF THE KERALA SURVEY AND BOUNDARIES ACT BY THE DEPUTY TAHSILDAR (LA), GENERAL, KOTTAYAM, PUBLISHED IN THE GOVERNMENT GAZETTE. EXT.P14: TRUE COPY OF THE PRELIMINARY NOTIFICATION NO.B.1-10/12 DATED 29.08.13 OF THE SPECIAL TAHSILDAR, LAND ACQUISITION (GENERAL) PALA, PUBLISHED IN THE EXTRAORDINARY GAZETTE DATED 9.9.13. RESPONDENTS' EXHIBITS NIL. /TRUE COPY/ P.S TO JUDGE K.SURENDRA MOHAN, J.

----- W.P(c) No.31553 of 2011-T
----- Dated this the 31st January, 2014

JUDGMENT

The petitioner has filed this Writ Petition aggrieved by the proposal to acquire a portion of his land for construction of the Mutholy-Bharanganam Highway. The

road in front of the petitioner's property, according to him, is 6.5 meters wide. The same is proposed to be increased to a width of 16 meters. The proposal, if implemented, would result in demotion of his compound wall and denial of the means of access to his house from the road. His property is alleged to be at a height of 14 feet above the road level. Though the petitioner has submitted Ext.P9 representation to the 2nd respondent, he complains that, no orders are passed thereon till date.

2. The learned Special Government Pleader Sri C.S.Manilal submits on instructions that the final decision to be taken on the question of alignment is by the Chief Engineer (Roads & Bridges), PWD. He assures that Ext.P9 would be considered and necessary orders passed thereon, without further delay. W.P(c) No.31553 of 2011-T2In view of the above, this Writ Petition is disposed of directing the 2nd respondent to transmit Ext.P9 representation to the Chief Engineer (Roads & Bridges), PWD, and further directing the Chief Engineer to consider the said representation in accordance with law, after affording an opportunity of being heard to the petitioner also, and to pass appropriate orders thereon, as expeditiously as possible and at any rate, within a period of one month of the date of receipt of a copy of this judgment. Until final orders are passed on Ext.P9 in accordance with the above directions, steps for dispossessing the petitioner of his property shall be kept in abeyance. Sd/- (K.SURENDRA MOHAN, JUDGE) rtr/

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