

**Manager Vs. State of Kerala**

**Manager Vs. State of Kerala**

**SooperKanoon Citation :** [sooperkanoon.com/1142642](http://sooperkanoon.com/1142642)

**Court :** Kerala

**Decided On :** May-30-2014

**Judge :** Honourable Mr.Justice a.M.Shaffique

**Appellant :** Manager

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE A.M.SHAFIQUA FRIDAY, THE 30TH DAY OF MAY 2014 9TH JYAISHTA, 1936 WP(C).NO. 11943 OF 2013(P)

----- PETITIONER(S): ----- MANAGER, VELLAMUNDA A.U.P. SCHOOL, P.O. KATTAYAD, VELLAMUNDA, WAYANAD DISTRICT, MANANTHAVADY, PIN -670 731. BY ADVS.SRI.JIJI THOMAS, SMT.SMITHA MATHEW. RESPONDENT(S): ----- 1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT ANNEXE, TRIVANDRUM- 695 001.

2. SECRETARY, VELLAMUNDA GRAMA PANCHAYAT, VELLAMUNDA, MANANTHAVADY- 670 731.

3. PRESIDENT, VELLAMUNDA GRAMA PANCHAYAT, VELLAMUNDA, MANANTHAVADY- 670 731.

4. CHAIRMAN, STANDING COMMITTEE FOR HEALTH AND EDUCATION, VELLAMUNDA GRAMA PANCHAYAT,VELLAMUNDA, MANANTHAVADY- 670 731.

5. ASSISTANT ENGINEER, PWD, MANANTHAVADY,WAYANAD- 670 731. R1 & R5 BY GOVT. PLEADER SMT.K.A. SANJEETHA. R2 TO R4 BY ADVS. SRI.K.M.FIROZ, SMT.M.SHAJNA. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON3005-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rs. WP(C).NO. 11943 OF2013(P) APPENDIX PETITIONER'S EXHIBITS:- EXHIBIT P1. A COPY OF THE POSSESSION CERTIFICATE DATED2801.2011. EXHIBIT P2. A TRUE COPY OF THE TAX RECEIPTS DATED2808.2010 IN SURVEY NO.275/IA3 REMITTED BY THE PETITIONER. EXHIBIT P2A. A TRUE COPY OF THE TAX RECEIPTS DATED2808.2010 IN SURVEY NO.275/IA5A1A REMITTED BY THE PETITIONER. EXHIBIT P3. A TRUE COPY FO THE SKETCH ISSUED BY THE SURVEY DEPARTMENT. EXHIBIT P4. A COPY OF THE INTERIM

#### ORDER

IN WP(C).NO. 3637/2011 DATED0402.2011. EXHIBIT P5. A COPY OF THE SHOW CAUSE DATED2804.2013 ISSUED BY THE2D RESPONDENT. EXHIBIT P6. TRUE COPY OF THE PHOTOGRAPHS REGARDING THE REAL PICTURE OF THE ILLEGAL ACTIVITIES OF THE RESPONDENT PANCHAYAT. EXHIBIT P7. COPY OF THE COMMISSION REPORT DATED0701/2014 SUBMITTED BY THE ADVOCATE COMMISSIONER IN O.S. NO.149/2013 BEFORE THE HON'BLE MUNSIFF COURT, MANANTHAVADY. EXHIBIT P8. COPY OF THE APPLICATION FOR GRANTING THE PERMISSION FOR CONSTRUCTING THE COMPOUND WALL DATED0510/2013 BEFORE THE2D RESPONDENT. EXHIBIT P9. COPY OF THE REJECTION LETTER DATED0710/2013 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER. RESPONDENT'S EXHIBITS:- EXT.R2A COPY OF THE LETTER DATED2904/2013, ISSUED BY THE2D RESPONDENT TO THE STATION HOUSE OFFICER OF VELLAMUNDA POLICE STATION. EXT.R2B COPY OF THE LETTER DATED3004/2013 ISSUED BY THE2D RESPONDENT TO THE STATION HOUSE OFFICER OF VELLAMUNDA POLICE STATION. EXT.R2C COPY OF THE LETTER

DATED0205/2013 ISSUED BY THE2D RESPONDENT TO THE PETITIONER.  
EXT.R2D COPY OF THE LAWYER NOTICE DATED2705/2013, CAUSE TO BE  
ISSUED BY THE PETITIONER TO THE2D RESPONDENT. //TRUE COPY//  
P.S.TO JUDGE rs. A.M. Shaffique, J.

===== W.P(C) No. 11943 of 2013 =====  
===== Dated this, the 30th day of May, 2014. =====

## **JUDGMENT**

Petitioner has approached this Court complaining about the demolition of compound wall constructed by him in his property, which is a school compound.

2. Counter affidavit is filed by the respondent Panchayat indicating that the petitioner did not construct compound wall as such and it was certain stones put up in the Panchayat property encroaching into the road portion. There was no compound wall at all. No permission was also obtained from the Panchayat.

3. The learned counsel for the petitioner submits that the petitioner has already filed a suit for damages against the Panchayat for illegally demolishing the compound wall. That apart, he has filed Ext. P8 application for constructing the compound wall, which came to be rejected by way of Ext. P9 on the ground that this writ petition is pending. Apparently, that is not a ground for the Panchayat to reject a proper application for constructing compound wall, if it is permissible under the provisions of the Panchayat Raj Act or the Rules framed thereunder.

4. Accordingly, the writ petition is disposed of as under: Ext. P9 is quashed. There will be a direction to the 2nd W.P(C) No. 11943 of 2013 -:

2. :- respondent to consider Ext. P8 in accordance with the procedure prescribed and pass orders within one month from the date of receipt of a copy of this judgment. Petitioner shall cure all the defects pointed out by the Panchayat in this regard. Sd/- A.M. Shaffique, Judge. Tds/