

Yoosuf. K vs Union of India

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SooperKanoon Citation : sooperkanoon.com/1301546

Court : Kerala

Decided On : May-31-2024

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : WP(C)/30891/2023

Appellant : Yoosuf. K

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYAISHTA, 1946 WP(C)
NO. 30891 OF 2023 PETITIONERS: 1 YOOSUF. K AGED 45 YEARS
S/O.MOHAMMED, KOZHIKKOTALAN HOUSE, PUTHUPONNANI,
PONNANI SOUTH P.O., MALAPPURAM-, PIN - 679586 2 MOHAMMED
RASHID P.P AGED 26 YEARS S/O.MOIDHU, PUTHUPARAMBIL,
PUTHUPONNANI, PONNANI SOUTH P.O., MALAPPURAM-., PIN -
679586 3 HANEEFA AGED 48 YEARS S/O.CHERIYA MOHAMMED,
CHULLINTE, PUTHUPONNANI, PONNANI SOUTH P.O.,
MALAPPURAM-, PIN - 679586 4 ALI P.T AGED 67 YEARS
S/O.KUNHIMARAKKARMUSALIYAR, PALLITHAZHATH,

PUTHUPONNANI, PONNANI SOUTH P.O., MALAPPURAM-, PIN - 5
SAUKEENA AGED 38 YEARS W/O.JALEEL, PALLITHAZHATH,
PUTHUPONNANI, PONNANI SOUTH P.O., MALAPPURAM-, PIN -
679586 6 MIDLAJ AGED 29 YEARS C/O.HAMSAKUTTY, THAYYIL
HOUSE, PUTHUPONNANI, PONNANI SOUTH P.O., MALAPPURAM-.,
PIN - 679586 7 AISHA AGED 44 YEARS W/O.ABDULLAKUTTI,
KADAPRATHAKATH HOUSE, KADAVANAD, PUTHUPONNANI,
PONNANI SOUTH P.O., MALAPPURAM-, PIN - 8 KASIM C AGED 53
YEARS S/O.MUHAMMEDKUTTY, CHIPPANTEKATH HOUSE,
PUTHUPONNANI, W.P.(C).No.30891 of 2023 2 PONNANI SOUTH P.O.,
MALAPPURAM-., PIN - 679586 9 SHEHARA P.T AGED 33 YEARS
W/O.ABOOBACKER, PALLITHZHATH, PUTHUPONNANI, PONNANI
SOUTH P.O., MALAPPURAM-, PIN - 679586 10 RAHEENA M.K AGED
34 YEARS D/O.ABOOBACKER, MOOCHIKOOTTATHIL HOUSE,
AYANNKATAM, PUTHUPONNANI, PONNANI SOUTH P.O.,
MALAPPURAM-, PIN - 679586 11 PRAVITHA K AGED 41 YEARS
W/O.SATHEESAN, PATHIRAVALLAPPIL, KADAVANAD,
PUTHUPONNANI, PONNANI SOUTH P.O., MALAPPURAM-., PIN -
679586 12 RENUKA K AGED 50 YEARS W/O.SUKUMARAN,
VELLOMPARAMBIL HOUSE, PUTHUPONNANI, PONNANI SOUTH
P.O., MALAPPURAM-, PIN - 679586 13 RISHAD C AGED 41 YEARS
S/O.MOIDUTTY, CHETTINTE HOUSE, PUTHUPONNANI, PONNANI
SOUTH P.O., MALAPPURAM-., PIN - 679586 14 SHABEER AGED 57
YEARS S/O.BEERAN, KOZHICKOTTALAM HOUSE, PUTHUPONNANI,
PONNANI SOUTH P.O., MALAPPURAM-., PIN - 679586 15 MUHTHAR
P.P AGED 40 YEARS S/OKUNHIMOHAMMED, PUTHUPARAMBIL,
PUTHUPONNANI, PONNANI SOUTH P.O., MALAPPURAM-., PIN -
679586 16 BADUSHA V AGED 46 YEARS C/O.KOYA,
VELLUTHAMMATHINTE HOUSE, VELIYANKODE, PUTHUPONNANI,
PONNANI SOUTH P.O., MALAPPURAM-., PIN - 679586

17 ANANDAN AGED 49 YEARS S/O.ARJUNAN, KORUVALAPPIL
HOUSE, KADAVANAD, W.P.(C).No.30891 of 2023 3 PUTHUPONNANI,

PONNANI SOUTH P.O., MALAPPURAM-, PIN - 679586 BY ADVS. P.SATHISAN DONA AUGUSTINE JAVED HAIDER ASADU AHMMED CHULLINTE MEHNA IBRAHIM SACHIN RAMESH RESPONDENTS:

1 UNION OF INDIA REP. BY SECRETARY, MINISTRY OF ROAD TRANSPORT & HIGHWAYS, GOVERNMENT OF INDIA, CENTRAL DELHI P.O., NEW DELHI ., PIN - 110001 2 REGIONAL OFFICER NATIONAL HIGHWAYS AUTHORITY OF INDIA, REGIONAL OFFICE - KERALA, T.C 86/1036-1, AMBLY ARCADE, S.N.N.R.A - 9, PETTAH P.O, THIRUVANANTHAPURAM, ., PIN - 695024 3 THE PROJECT DIRECTOR, NATIONAL HIGHWAYS AUTHORITY OF INDIA PROJECT IMPLEMENTATION UNIT- KOCHI, VII/511, NEYTHELI-MAVELIPURAM ROAD, KAKKANAD P.O., ERNAKULAM -, PIN - 682030 4 DIRECTOR GENERAL (ROAD DEVELOPMENT) & SPECIAL SECRETARY ROOM NO.213, MINISTRY OF ROAD TRANSPORT & HIGHWAYS, TRANSPORT BHAVAN, 1, PARLIAMENT STREET, CENTRAL DELHI P.O., NEW DELHI ., PIN - 110001 5 PROJECT DIRECTOR NATIONAL HIGHWAYS AUTHORITY OF INDIA (HEAD OFFICE) DWARAKA SECTOR 10, SOUTH WEST DELHI P.O., NEW DELHI ., PIN - 110075 6 STATE OF KERALA REP. BY ITS SECRETARY, PUBLIC WORKS DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM P.O., PIN - 7 THE SPECIAL DEPUTY COLLECTOR AND COMPETENT AUTHORITY W.P.(C).No.30891 of 2023 4 OFFICE OF DEPUTY COLLECTOR, LAND ACQUISITION (NH17) VALAKKULAM P.O., KOZHICHENA, MALAPPURAM-, PIN - 676508 8 DISTRICT COLLECTOR MALAPPURAM, UP HILL, CIVIL STATION P.O., MALAPPURAM-, PIN - 9 PONNANI MUNICIPALITY MUNICIPAL OFFICE, NH 17, NEAR PONNANI, MALAPPURAM, KERALA , REP. BY ITS SECRETARY., PIN - 679577 10 THE CHAIRMAN PONNANI MUNICIPALITY, MUNICIPAL OFFICE, NH 17, NEAR PONNANI, MALAPPURAM, KERALA, PIN - 679577 11 THE NATIONAL HIGHWAYS AUTHORITY OF INDIA G-586, SECTOR -10, DWARAKA P.O, NEW DELHI- , REP BY ITS CHAIRMAN, PIN - 110075

OTHER PRESENT: DSGI-P C KRISHNAN THIS WRIT PETITION (CIVIL)
HAVING COME UP FOR ADMISSION ON 31.05.2024, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING: W.P.(C).No.30891 of 2023 5 VIJU
ABRAHAM,J ----- W.P.(C).No.30891 of 2023
----- Dated this the 31st day of May, 2024

JUDGMENT

Petitioners have approached this Court seeking a direction to the respondents to ensure due access by providing underpass/over bridge in the subject matter stretch between Veliyancode-Anappadi during the construction and management of National Highway 66.

2. This Court as per order dated 18.10.2023 issued the following direction:

The petitioners have submitted Ext.P13 before the Municipal Council of Ponnani Municipality and a copy of the same has been submitted to the Project Director, the 5th respondent. The 5th respondent may invite the petitioners as well as the Secretary and Chairperson of the Municipality for a hearing on Ext.P13 representation. The 5th respondent shall give notice to the 1st petitioner, who will represent the other petitioners in the meeting. The Project Director or the appropriate authority shall take a decision as regards the construction

W.P.(C).No.30891 of 2023 6 of under pass/flyover/foot over bridge, within a period of two weeks from the date of receipt of a copy of this order. In compliance of the said direction a statement dated 9.11.2023 has been filed on behalf of respondents 1 to 5 and 11 wherein paragraph 5 reads as follows: 5. Finally, based on the discussion following solutions were brought out and the same have been intimated to the petitioners.

1. Providing an FOB with lift facility

by NHAI subject to providing the land for foundation and ramps (5*20m) on either side of Highway by Municipality/State Government, free of cost, which can be

used for pedestrian for crossing of the Highway.

2. A box of size 2.5m clear height, 4

to 5 m width (as per site availability and without changing the existing profile) will be provided subject to the approval of competent authority in the approaches of the old Biyyam Bridge to connect the service roads. This box can be used for crossing of pedestrians, fisherman, small vehicles etc. Along with the statement Annexure-R1(b) minutes is also appended to.

3. The learned Senior Central Government

W.P.(C).No.30891 of 2023 7 Standing Counsel would submit that the decision has been taken based on the discussion with the petitioners, which has been duly minuted in Annexure-R1(b). The petitioners have now filed I.A.No.1 of 2024 wherein a contention has been taken that even the decisions in Annexure-R1(a) minutes will not fully solve the issues raised by the petitioners.

4. The learned counsel for the petitioners would

submit that they would raise all such grievance before the 2nd respondent. It is ordered that if any objection is raised by the petitioners within a period of one week from today, appropriate decision shall be taken on the same by the 2nd respondent, after affording an opportunity of being heard to the petitioners, within a period of 4 weeks thereafter. The writ petition is disposed of as above. sd/- VIJU ABRAHAM, JUDGE pm W.P.(C).No.30891 of 2023 8 APPENDIX OF WP(C) 30891/2023 PETITIONERS' EXHIBITS Exhibit P1 TRUE COPY OF THE RELEVANT EXTRACT OF SECTION 3D NOTIFICATION S.O.4060(E) DATED 16.08.2018 Exhibit P2 TRUE COPY OF THE MINUTES OF MEETING DATED 06.05.2017 Exhibit P2(a) TRUE COPY OF THE MINUTE OF MEETING DATED 11.04.2018 Exhibit P3 TRUE COPY OF THE DETAILED PROJECT REPORT VOLUME IX PART 1 HIGH WAY DRAWINGS, SEPTEMBER 2020 Exhibit P4 TRUE COPY OF THE LETTER NO.G2-15979/20 DATED 11.09.2023 ISSUED BY THE 9TH RESPONDENT TO THE MINISTER OF PWD Exhibit P4(a) TRUE COPY OF THE LETTER NO.G2-15979/20 DATED 11.09.2023 ISSUED BY

THE 9TH RESPONDENT TO THE HON'BLE CHIEF MINISTER OF KERALA
Exhibit P5 TRUE COPY OF THE RELEVANT EXTRACT OF THE AGENDA
DATED 18.06.2023 Exhibit P6 TRUE COPY OF THE REPRESENTATION
SUBMITTED BEFORE THE HON'BLE MINISTER OF PWD DATED 15.09.2023
Exhibit P6(a) TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE
THE HON'BLE MP SRI.E.T.MUHAMMEDBASHEER DATED 15.09.2023 Exhibit
P6(b) TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
8TH RESPONDENT DATED 15.09.2023 Exhibit P6(c) TRUE COPY OF THE
REPRESENTATION SUBMITTED TO THE HON'BLE CHIEF MINISTER OF
KERALA DATED 15.09.2023 Exhibit P7 TRUE COPY OF THE
REPRESENTATION W.P.(C).No.30891 of 2023 9 SUBMITTED BY THE
PETITIONERS BEFORE THE 3RD RESPONDENT DATED 08.09.2023 Exhibit
P7(a) TRUE COPY OF DRAFT REPRESENTATION FOR CONSTRUCTION OF
UNDER PASS SIGNED BY ABOUT 1000 RESIDENTS IN THE VICINITY Exhibit
P8 TRUE COPY OF THE EXPERT OPINION DATED 24.06.2023 GIVEN BY THE
STALWART AND PIONEERE.SREEDHARAN Exhibit P9 TRUE COPY OF THE
REPLY DATED 12.09.2023

ISSUED TO THE 2ND RESPONDENT ON A COMMUNICATION PUT FORTH BY
THE MEMBER OF PARLIAMENT OF PONNANI CONSTITUENCY

Exhibit P10 TRUE COPY THE PHOTOGRAPHS SHOWING THE PRESENT
STAGE OF CONSTRUCTION AND PRESENT LIE OF THE PROPERTIES Exhibit
P11 TRUE COPY OF THE LETTER ISSUED BY NHAI TO REGIONAL OFFICER
DATED 26.09.2023, FORWARDED TO PETITIONER THROUGH E-MAIL Exhibit
P12 TRUE COPY OF THE DETAILS REGARDING DISTANCE FROM EACH
FLYOVER OR UNDERPASS FROM KUTTIPURAM TO ANDATHODU (35 KM.)
Exhibit P13 TRUE COPY OF THE LETTER SUBMITTED BY THE 1ST AND 2ND
PETITIONERS DATED 17.10.2023 ALONG WITH THE RECEIPT Exhibit P14
TRUE COPY OF THE CERTIFICATE OF

TESTIMONY ISSUED BY THE 9TH RESPONDENT DATED 07.10.2023
STATING THE EXISTENCE OF VACANT PLOTS WITHIN THEIR
JURISDICTIONAL LIMITS AND THEIR OWNERSHIP Exhibit P15 TRUE COPY

OF THE LETTER ISSUED BY DR.E.SREEDHARAN DATED 13.10.2023
RESPONDENTS' EXHIBITS Exhibit R1(a) True copy of the sketch showing the
two underpasses and the entry and exist points W.P.(C).No.30891 of 2023 10
Annexure R1(b) A copy of the minutes of the meeting

held at NHAI PIU Cochin-I on 01.11.2023

at 4.00 PM in compliance of the order

dated 18.10.2023 in WPC No. 30891 of Annexure R1(a) A copy of the notice
dated 31.10.2023 issued to the Petitioner PETITIONERS' EXHIBITS Exhibit P16
TRUE COPY OF THE PHOTOGRAPH OF THE PRESENT MODE OF
CONSTRUCTION OF THE BOX CULVERT REFERRED IN THE STATEMENT
SUBMITTED BY THE RESPONDENT IN STATEMENT DATED 09.11.2023

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