

Khalid Mundappilly, vs the Superintending Engineer,

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SooperKanoon Citation : sooperkanoon.com/1347571

Court : Kerala

Decided On : Mar-31-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : WP(C)/9423/2023

Appellant : Khalid Mundappilly,

Respondent : The Superintending Engineer,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY,
THE 31ST DAY OF MARCH 2023 / 10TH CHAITHRA, 1945 WP(C) NO.
9423 OF 2023 PETITIONER: KHALID MUNDAPPILLY AGED 74
YEARS, S/O LATE MUHAMMED, , MUNDAPPILLY HOUSE,
EDAYAPPURAM, ALUVA, ERNAKULAM DISTRICT, PIN - 683101 BY
ADVS. T.R.RAJAN ALAN J YOGYAVEEDU RESPONDENTS: 1 THE
SUPERINTENDING ENGINEER O/O THE SUPERINTENDING
ENGINEER, MINOR IRRIGATION CENTRAL CIRCLE, ERNAKULAM,
PIN - 682017 2 THE EXECUTIVE ENGINEER O/O THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DIVISION, KAKKANAD,
ERNAKULAM, PIN - 682030 3 THE ASSISTANT EXECUTIVE
ENGINEER O/O THE MINOR IRRIGATION SUB DIVISION,

THOTTAKKATTUKKARA, ALUVA., PIN - 683108 4 THE ASSISTANT ENGINEER O/O THE ASSISTANT ENGINEER, MINOR IRRIGATION SECTION, PWD QUARTERS, PERIYAR NAGAR, ALUVA, KERALA, PIN - 683101 5 THE TAHSILDAR(LAND RECORDS) MINI CIVIL STATION, CIVIL STATION RD, PERIYAR NAGAR, ALUVA, KERALA., PIN - 683101

6 THE VILLAGE OFFICER KEEZHMADU VILLAGE OFFICE, KEEZHMADU, ALUVA, KERALA, PIN - OTHER PRESENT: SMT. C S SHEEJA (SR GP) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P (C) No.9423/2023 -2-

JUDGMENT

The petitioner has approached this court seeking the following reliefs;

I. issue a writ in the nature of mandamus or any other writ order or direction commanding the 5th respondent to fix the boundary of the 'Thuruthy Thodu' in terms of the Form 10 notice submitted by the 4 th respondent as is evidenced by Ext.P4 and P6 communications within a time limit to be fixed by this hon'ble Court.

II. issue a writ in the nature of mandamus or any other writ order or direction commanding the 1st to 4th respondents to take appropriate action to remove the sediments, silts and sludges etc. from the "Thuruthy Thodu' pursuant to the decision reflected in Ext.P3 communication within a time limit to be fixed by this hon'ble Court after fixation of boundary consequential to prayer No.I.

2. The learned counsel for the petitioner submits that the canal in

question is one abutting the property of the petitioner and the canal is now completely covered with sludge and sediments which have to be removed to

ensure that there is no flooding during the rainy season. It is submitted that the boundaries of the canal have to be properly identified, to restore the canal to its original position. It is submitted that the 4th respondent has already requested the 5th respondent to conduct a survey to identify the boundaries of the canal. The petitioner prays that the survey taken up and completed within a time frame to be fixed by this court.

3. The learned Senior Government Pleader would submit that since the

boundaries of the entire canal has to be fixed, substantial time may be required considering the work involved. It is pointed out that a team of surveyors may have to be deputed for the said purpose. W.P (C) No.9423/2023 -3-

4. Having heard the learned counsel for the petitioner and the learned

Senior Government Pleader for respondents, this writ petition will stand disposed of directing the 5th respondent to take up the request made by the 4th respondent for identifying the boundaries of the canal in question and complete the survey and fix the boundaries as requested by the 4th respondent within a period of four months from the date of receipt of a certified copy of this judgment. It is open to the 5th respondent to request the District Survey Superintendent to depute sufficient number of surveyors to complete the work within the time fixed as above. After the survey is completed and the boundaries are fixed, the respondents 1 to 4 will ensure that the canal is restored to its original position without any further delay. Sd/- GOPINATH P. JUDGE AMG W.P (C) No.9423/2023 -4- APPENDIX OF WP(C) 9423/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE PETITION DATED 25/10/2021 SUBMITTED BY THE PETITIONER BEFORE THE HONBLE CHIEF MINISTER OF KERALA Exhibit P2 TRUE COPY OF THE COMMUNICATION DATED 18/12/2021 OF THE 1ST RESPONDENT TO THE PETITIONER Exhibit P3 TRUE COPY OF THE COMMUNICATION DATED 15/1/2022 OF THE 1ST RESPONDENT TO THE PETITIONER Exhibit P4 TRUE COPY OF THE COMMUNICATION DATED 13/7/2022 OF THE Exhibit P5 TRUE COPY OF THE COMMUNICATION DATED 27/2/2023 OF THE Exhibit P6 TRUE COPY OF THE COMMUNICATION DATED 27/2/2023 OF THE 6TH RESPONDENT TO THE PETITIONER

