

C M Alias, vs the District Collector,

C M Alias, vs the District Collector,

SooperKanoon Citation : sooperkanoon.com/1444715

Court : Kerala

Decided On : Mar-24-2022

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/2171/2022

Appellant : C M Alias,

Respondent : The District Collector,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN THURSDAY, THE 24TH DAY OF MARCH 2022 / 3RD CHAITHRA, 1944 PETITIONERS: 1 C M ALIAS, AGED 72 YEARS S/O. LATE MATHAI, RESIDING AT CHATHANATH HOUSE, THENGODE P.O., KAKKANAD VILLAGE, KANAYANNUR TALUK, ERNAKULAM DISTRICT-682030. 2 MRS.ELIKUTTY ALIAS, AGED 70 YEARS W/O. C.M. ALIAS, RESIDING AT CHATHANATH HOUSE, THENGODE P.O., KAKKANAD VILLAGE, KANAYANNUR TALUK, ERNAKULAM DISTRICT-682030. BY ADVS. K.MADHUSOODANAN T.G.PAUL MATHEW JACOB (KUNNATHU) SYRIAC JOSEPH RESPONDENTS:

1 THE DISTRICT COLLECTOR, COLLECTORATE, ERNAKULAM-682030. 2 THE THAHSILDAR, TALUK OFFICE, KANAYANNUR - 682011. 3 THE VILLAGE OFFICER, KAKKANAD VILLAGE, KAKKANAD-682030. 4 THE EXECUTIVE ENGINEER, PVIP, THOTTAKKATTUKARA, ALUVA, ERNAKULAM-683108. 5 THE ASSISTANT ENGINEER, PVIP SECTION II, THOTTAKKATTUKARA, ALUVA, ERNAKULAM- 683108. 6 ANEESH M.P., S/O. PARAMESWARAN, MEKKARA HOUSE, THENGODE P.O., KAKKANAD VILLAGE, KANAYANNUR TALUK, ERNAKULAM DISTRICT-

682030. OTHER PRESENT: SMT.K.AMMINIKUTTY SR.G.P. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners allege that the 6 th respondent has

encroached into certain extents of public lands, which are part of the Canal Bund Road, under the Periyar Valley Irrigation Project (PVIP). They, therefore, pray that the official respondents be directed to take necessary action against the 6th respondent, after demarcating the areas which he is in unauthorized possession and complete such proceedings within a time frame to be fixed by this Court.

2. The learned Senior Government Pleader -

smt.K. Amminikutty, in response to the afore submissions of Sri.K.Madhusoodanan - learned counsel for the petitioners, submitted that this writ petition is unnecessary because the competent respondents have already taken necessary action with respect to their complaint, and that a survey has been now called for under the aegis of the jurisdictional Taluk Surveyor. She submitted that as soon as the Taluk Surveyor

makes available his report and sketch, requisite action will be taken against the 6th respondent, after following the due procedure.

3. The endorsements on the files of this case reveal that the notice issued to the 6th respondent from this Court has been returned unserved. However, since I am certain that the directions I propose herein would not cause him any prejudice, I proceed to dispose of this writ petition in the following manner. Since the learned Senior Government Pleader affirms that the competent respondents have already initiated action pursuant to the complaint of the petitioners and that survey requisitioned, I am certain that this court will be justified in disposing of this writ petition with the following directions:

(a) The 2nd respondent - Tahsildar will ensure that the survey with respect to the Canal Bund is completed, with the assistance of the Taluk Surveyor, as expeditiously as is possible, not later than three months from the date of receipt of a copy of this judgment.

(b) On the survey sketch and report being received by the

Tahsildar, he shall forward the same to the 4th respondent - Executive Engineer (PVIP), who will then take necessary action against every encroachment, including it found against the 6th respondent; and complete proceedings, after following due procedure, as also after affording an opportunity of being heard to the petitioners, as expeditiously as is possible, but not later than four months from the date of receipt of the said survey sketch and plan.

Sd/- DEVAN RAMACHANDRAN JUDGE ANB APPENDIX OF WP(C) 2171/2022
PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE SETTLEMENT DEED NO.119/2015. Exhibit P2 TRUE COPY OF THE TAX RECEIPT OF THE PROPERTY. Exhibit P3 TRUE COPY OF THE ACKNOWLEDGEMENT FROM THE TALUK OFFICE. Exhibit P4 TRUE COPY OF THE APPLICATION WITH ENCLOSURES. Exhibit P5 TRUE COPY OF THE REQUEST SUBMITTED BY THE AE, PVIP TO THE TAHSILDAR FOR FIXING THE PVIP CANAL BOUNDARY. Exhibit P6 TRUE COPY OF THE REQUEST SUBMITTED TO THE DISTRICT COLLECTOR, ERNAKULAM.