

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE K.HARIPAL

Wednesday,the 24th day of February 2021/5th Phalguna, 1942

IA/1/2021 IN WP(C)/22913/2020(L)

PETITIONER/PETITIONER

**V.A.PAUL @ PAUL ANTONY VADASSERY,AGED 72 YEARS
S/O. LATE V.P ANTONY., PERMANENT RESIDENT OF VADASSERY
HOUSE, MARAMPALLY ROAD, PALLURUTHY, KOCHI 682 006 AND
PRESENTLY RESIDING AT OMAIR TRAVEL AGENCY BUILDING,
FLAT NO. 52, KHALIFA STREET,
KHALIFA, ABUDHABI, POST NO. 31587 UNITED ARAB EMIRATES,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER O. BABU
YOHANNAN, AGED 54 YEARS, S/O. OONNUNNY, ARIYATTIL HOUSE,
VALUMMEL ROAD, THOPPUMPADY, KOCHI 682 005**

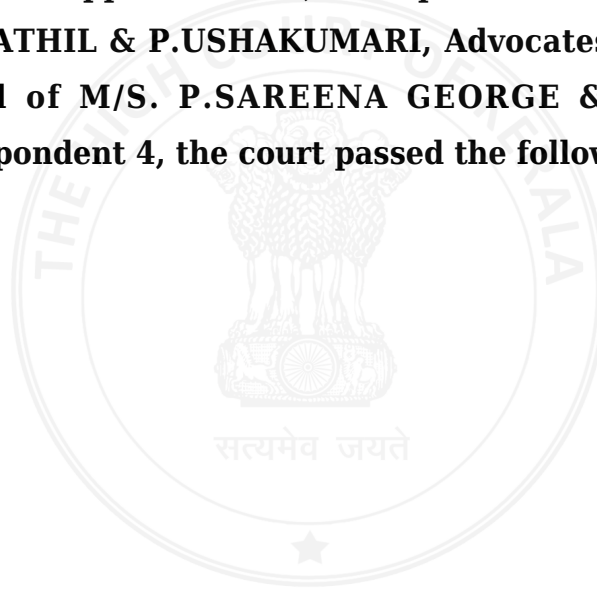
RESPONDENTS/RESPONDENTS

- 1. COCHIN DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, DEVASWOM BOARD BUILDING,
THRISSUR 680 001**
- 2. SPECIAL THAHASILDAR,
LC UNIT, COCHIN DEVASWOM BOARD, OFFICE OF COCHIN
DEVASWOM BOARD, THRISSUR 680 001.**
- 3. DISTRICT COLLECTOR,
CIVIL STATION, KAKKANAD, ERNAKULAM.**
- 4. CORPORATION OF COCHIN,
REPRESENTED BY ITS SECRETARY, KOCHI MUNICIPAL
CORPORATION, P.B NO. 1016, COCHIN 682 011.**
- 5. REVENUE DIVISIONAL OFFICER,
1ST FLOOR, K.B JACOB ROAD, FORTH KOCHI 682 001.**

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to direct the respondents 1 and 2 to demarcate the alleged land to the extent of 0.0014 hectars in survey No. 613/1 alleged to be encroached by the petitioner and in such circumstances, this petitioner is ready to submit an undertaking that this petitioner is ready to kept away the alleged extent of land till the final disposal of the above writ petition. In that event this petitioner can complete the remaining work so as to complete the construction and accordingly avoid the unnecessary delay and expenditure, pending disposal of the writ petition.

This application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of M/S. SIVAN MADATHIL & P.USHAKUMARI, Advocates for the petitioner in IA/WP(C) and of M/S. P.SAREENA GEORGE & ARUN ANTONY, Advocates for respondent 4, the court passed the following:-

P.T.O.



C.T.RAVIKUMAR & K.HARIPAL, JJ.

IA 1 of 2021 IN WP(C) No.22913 of 2020

Dated this the 24th day of February 2021

O R D E R

For information purpose only

The petitioner in the above writ petition has filed an affidavit on 22.01.2021. It is stated therein that, on the strength of Ext.P2 permit dated 09.05.2018, he started building construction strictly adhering to the approved plan, and that the construction has already been completed. That apart in Paragraph 8 therein it is stated thus:

"It is further respectfully submitted that, this Hon'ble Court may pleased to direct the respondent 1 and 2 to demarcate the alleged land to the extent of 0.0014 hectors of survey No.613/1, the same was alleged to be encroached by the petitioner. In such circumstances, the petitioner is ready to submit an undertaking that this petitioner is ready to kept way the alleged extent of land till the final disposal of the above writ petition. In that event this petitioner can complete the remaining work so as to complete the construction and accordingly avoid the unnecessary delay and expenditure."

2. That apart, it is sought for a direction to respondents 1 and 2 to demarcate the alleged encroachment viz., an extent of 0.0014 hectors in Survey No.613/1 of Rameswaram Village in Kochi Taluk. It is also stated in the affidavit that he is ready to keep in fact the alleged extent of encroached land till the final disposal of the above writ petition. Virtually, he is seeking permission to complete the construction in the other part of the land without any unnecessary delay and expenditure.

3. The learned Government Pleader submitted that the Tahasildar (LR) shall also be directed to oversee the survey, if the 2nd respondent is directed to conduct survey for the aforesaid purpose.

4. Taking note of the prayer and nature of undertaking in the affidavit, we have earlier directed the learned Government Pleader to get instructions from the 2nd respondent in the matter. However, he is yet to receive instruction. In the circumstances, taking note of the urgency and also the undertaking given by the petitioner, we are inclined to pass an interim order as follows:-

The 2nd respondent shall demarcate an extent of 0.0014 hectares in Survey No.613/1 of Rameswaram Village in Kochi Taluk, allegedly encroached upon by the petitioner. After such demarcation, the report along with the sketch prepared, shall be produced by the 2nd respondent before this Court on or before 15.03.2021.

List the matter along with the connected cases on 17.03.2021, for further consideration.

Sd/-
C.T.RAVIKUMAR,JUDGE

Sd/-
K.HARIPAL,JUDGE

VPK

/true copy/

Sd/-
ASSISTANT REGISTRAR

**EXHIBIT P2 - THE TRUE COPY OF THE BUILDING PERMIT NO.
SY.P1-607/8/2017 ISSUED BY THE 4TH RESPONDENT CORPORATION
DATED 09-05-2018**

For information purpose only

