

IN THE HIGH COURT OF KERALA AT ERNAKULAM**Present:****THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR****&****THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN****Thursday, the 18th day of March 2021/27th Phalguna, 1942****IA/1/2021 IN WP(C)/22913/2020****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**

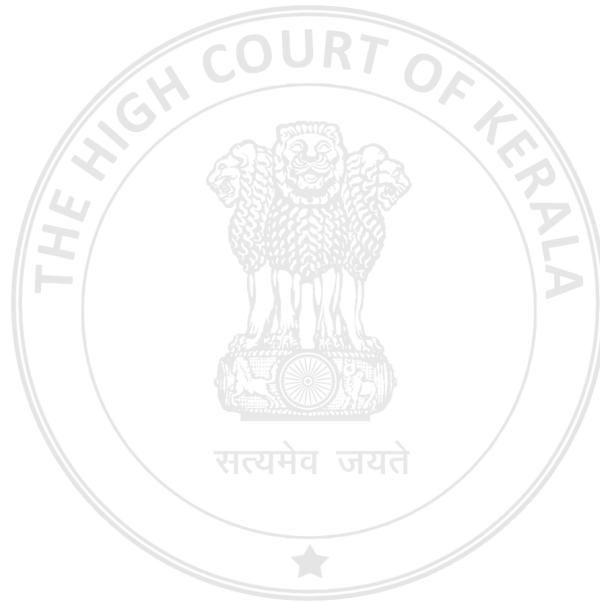
RESPONDENT

- 1. COCHIN DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, DEVASWOM BOARD BUILDING,
THRISSUR 680 001**
- 2. SPECIAL THAHASILDAR, सत्यमेव जयते
LC UNIT, COCHIN DEVASWOM BOARD, OFFICE OF COCHIN
DEVASWOM BOARD, THRISSUR 680 001**
- 3. DISTRICT COLLECTOR,
CIVIL STATION, KAKKANAD, ERNAKULAM-682003**
- 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, FORT 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 hectares 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.

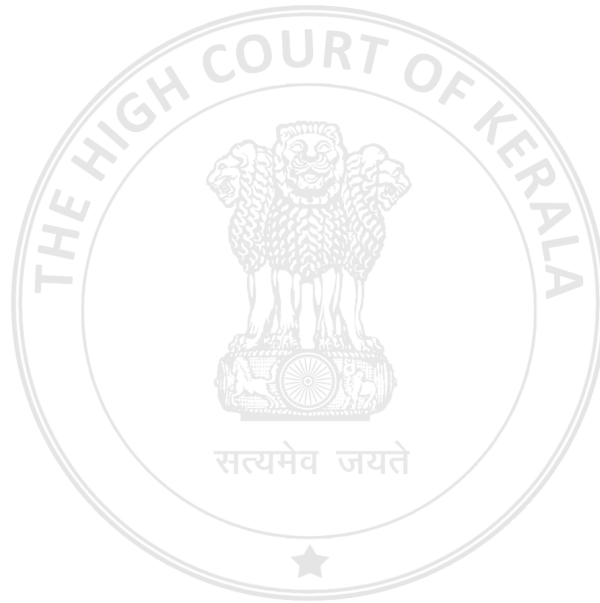
This application again coming on for orders upon perusing the application and the affidavit filed in support thereof, and this court's order dated 24-02-2021 in IA 1 of 2021 and upon hearing the arguments of M/S SIVAN MADATHIL, P.USHAKUMARI, Advocates for the petitioner in IA/WP (C) and of M/S P.SAREENA GEORGE, ARUN ANTONY, Advocates for the respondent 4 in IA / WP(C), the court passed the following:



WP(C) No. 22913/2020

Exhibit P3: The true copy of the notice dated 07.09.2020 is send by the Assistant Executive Engineer, of the 4th respondent Corporation.

For information purpose only



**C.T. RAVIKUMAR
&
MURALI PURUSHOTHAMAN, JJ.**

=====

**I.A.No.1 OF 2021
IN
W.P.(C)No.22913 OF 2020**

=====

Dated this the 18th day of March, 2021

For information purpose only

ORDER

Ravikumar, J.

The petitioner claims to be the absolute owner in possession of 7.550 cents of land in Survey No.660/4 in Rameswaram Village in Kochi Taluk in Ernakulam District. His case is that he applied for and obtained building permit to effect construction thereon and on its strength, he has started construction of a building in terms of approved plan in the said property. While so, he received Ext.P3 notice dated 7.09.2020 requiring him to stop the construction on the ground that in terms of the order of this Court in W.P.(C) No.13816/2020, the question whether the petitioner is actually effecting construction in the property belonging to the Cochin Devaswom Board (CDB) or revenue purampokke is to be ascertained and in that matter, its boundaries have to be demarcated. It is also

stated therein that in respect of the aforesaid aspects, for ascertainment and demarcation, direction was already given by this Court to the Revenue Divisional Officer, Kochi. It is to be noted that the allegation against the petitioner is that he has encroached upon 0.0014 hectars in Survey No.613/1 in Rameswaram Village in Kochi Taluk. The dispute to be resolved is whether the said extent comprised in Survey No.613/1 belongs to CDB or whether it is revenue purampokke or whether the petitioner himself is having title over it. Thus, it is obvious that the only allegation against the petitioner, in view of the materials on record, is that he has encroached upon 0.0014 hectars of land comprised in Survey No.613/1 in Rameswaram Village in Kochi Taluk. It can be seen that neither the State nor the CDB got any case that the extent of 7.550 cents of land in Survey No.660/4 in Rameswaram Village in Kochi Taluk is also an encroachment. At any rate, they did not dispute the title of the petitioner over the said extent of land comprised in Survey No.660/4 in Rameswaram Village. In this context, it is relevant to refer to paragraph 8 of the affidavit dated 22.1.2021 accompanying the captioned I.A filed by the writ petitioner. It reads 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

hectars in 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 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.”

2. The above extracted paragraph would reveal that the petitioner himself seeks for a direction to respondents 1 and 2 to demarcate the allegedly encroached land to the extent of 0.0014 hectars in survey No.613/1 and states that he is ready to submit an undertaking that he would keep the said alleged extent of land in tact till final disposal of the writ petition. He also seeks permission to complete the remaining work in the property wherein he is having absolute title and possession situated in Survey No.660/4 in Rameswaram Village in Kochi Taluk.

3. In the circumstances obtained as above, we are of the view that recording the statement in paragraph 8 of the affidavit dated 22.1.2021 and the undertaking made by the learned counsel on behalf of the petitioner in tune with what is stated in paragraph 8, respondents 1 and 2 can be directed to demarcate the aforesaid extent of land. In such circumstances, there will be a direction to

respondents 1 and 2 in the writ petition to demarcate 0.0014 hectares in Survey No.613/1 in Rameswaram Village in Kochi Taluk, if not already demarcated, within three days from today. On expiry of the said period, the petitioner would be entitled to go ahead with the construction in the property having an extent of 7.550 cents in Survey No.660/4 in Rameswaram Village in Kochi Taluk if he got absolute title and possession over the same and he shall keep the disputed extent of land viz., 0.0014 hectares in Survey No.613/1 of Rameswaram Village, in tact. The learned Government Pleader shall produce the report and sketch of the alleged encroached land viz., 0.0014 hectares in Survey No.613/1 in Rameswaram Village in Kochi Taluk. Sketch of the same shall be served on all parties in the connected writ petitions.

Post immediately after summer vacation, 2021 along with connected matters, for further consideration.

Sd/-

C.T.RAVIKUMAR, JUDGE

Sd/-

MURALI PURUSHOTHAMAN, JUDGE

spc/