



2025:KER:31612

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

WP(C) NO. 33354 OF 2023

PETITIONER:

K.JOHN @ ASHOK
AGED 68 YEARS
S/O. LATE K.G.JOSEPH,
MAMUTTIL ESTATE, OOTTUPARA P.O.,
ARUVAPPULAM VILLAGE,
KONNI TALUK, PATHANAMTHITTA,
NOW RESIDING AT 9-B2 CONDOR DAFFODILS,
KURAVANKONAM, KOWDIAR P.O,
THIRUVANANTHAPURAM, PIN - 695003

BY K.JOHN @ ASHOK(Party-In-Person)

RESPONDENTS:

1 THE DISTRICT COLLECTOR
COLLECTORATE, PATHANAMTHITTA,
PATHANAMTHITTA DISTRICT, PIN - 689645

ADDL.2 SANTHOSH MATHEW
AGED 51 YEARS, S/O LATE RAJAN MATHEW,
ADVOCATE, 17AB, MATHERS SERENE ORCHARD,
VIDYA NAGAR, KADAVANTHRA, KOCHI,
ERNAKULAM DISTRICT - 682020

ADDL.3 SANA GEORGE
AGED 46 YEARS, W/O SANTHOSH MATHEW,
17AB, MATHERS SERENE ORCHARD, VIDYA NAGAR,
KADAVANTHRA, KOCHI, ERNAKULAM DISTRICT - 682020

[ADDITIONAL RESPONDENTS 2 & 3 ARE IMPEADED AS PER
ORDER DATED 12.11.2024 IN IA 1/2024 IN WP(C)
33354/2023]



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BY ADVS.
KURIAN ANTONY MATHEW
ARUN THOMAS
VEENA RAVEENDRAN
KARTHIKA MARIA
ANIL SEBASTIAN PULICKEL
SHINTO MATHEW ABRAHAM
LEAH RACHEL NINAN
JOE S. ADHIKARAM
B.G.HARINDRANATH (SR.) (K/378/1984)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 10.04.2025 AND THE COURT ON 11.04.2025
DELIVERED THE FOLLOWING:



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N. NAGARESH, J.

.....
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.....

Dated this the 11th day of April, 2025

J U D G M E N T

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The petitioner, who is holding agricultural land in Konni Taluk and who is leading a retired life, is before this Court seeking to dispose of Ext.P1 representation after affording an opportunity of hearing to the petitioner and affected parties as expeditiously as possible within the time frame as fixed by this Court.

2. The petitioner states that large scale encroachment of river Puramboke around the property of the petitioner has taken place and public property has been illegally converted as private holding. The petitioner



submitted complaints to the 1st respondent seeking to take action against the illegal encroachment. But, no action has been taken.

3. The petitioner states that his property is lying near Achankovil River. Certain persons have encroached the river Puramboke and have converted puramboke as their private property. They have started plantation activity. Some of the encroachers have obtained illegal assignments of river Puramboke. Government property is appropriated. The petitioner submitted Ext.P1 representation dated 19.09.2023 to the 1st respondent pointing out the encroachment. The petitioner has submitted Ext.P3 reminder also.

4. However, the petitioner has not received any reply from the 1st respondent and the 1st respondent has not taken any action on Ext.P1 representation. The persons, who are holding the river puramboke, are very influential persons, capable of manipulating Government records and



creating fabricated titles. The inaction of the 1st respondent is highly improper and warrants interference by this Court, contends the petitioner.

5. The petitioner states that when the petitioner has filed representation against encroachment of river Puramboke, the 1st respondent authority has to enquire into the matter and take action in public interest. The 1st respondent is discharging public duty. The 1st respondent has a duty to act against persons encroaching public land. The 1st respondent is therefore compellable to consider and dispose of Ext.P1 representation, urged the petitioner.

6. Respondents 2 and 3 resisted the writ repetition. Respondents 2 and 3 submitted that no such encroachment has taken place as alleged by the petitioner. The petitioner is making baseless allegations without producing any proof to substantiate the case. Allegations are made to harass the additional respondents 2 and 3 and other persons named in Ext.P1 representation. The present writ



repetition is targetted at harassing additional respondents 2 and 3 and their family members.

7. Respondents 2 and 3 submitted that respondents 1 to 7, 9 and 10 in Ext.P1 representation are defendants 1 to 6, 8, 11 and 12 in OS No.34/2016 of the Sub Court, Pathanamthitta. The Sub Court found that the petitioner and his two sisters do not have right and title over plaint schedule property. Against the judgment in OS No.34/2016, AS No.16/2021 was filed in the District Court, Pathanamthitta. The Appeal Suit was dismissed. Against the judgment and decree in OS and AS, RSA No.452/2023 and RSA No.451/2023 have been filed and the RSAs are pending before this Court.

8. The Government Pleader representing the 1st respondent submitted that the reliefs claimed by the petitioner in Ext.P1 representation in effect are of civil nature, which cannot be granted by the 1st respondent. When the complaint made by the petitioner relating to encroachment of



river puramboke came to the notice, the 1st respondent ordered the Taluk Surveyor to conduct survey. So far, no encroachment is detected.

9. The Government Pleader further submitted that old survey records were needed to hold a survey on the alleged encroachment of river Puramboke. The old survey records are now collected from the Central Survey Office, Thiruvananthapuram. A detailed survey will be conducted through the surveyor and, if any encroachment is detected, action will be taken to remove such encroachment after conducting the survey.

10. I have heard the petitioner as party in person, the Government Pleader representing the 1st respondent and the Senior Counsel assisted by the counsel appearing for additional respondents 2 and 3.

11. The prayer of the petitioner in the writ petition is to direct the 1st respondent-District Collector to consider Ext.P1 representation. In the statement of facts in



the writ petition, the petitioner has raised grievances relating to encroachment of river Puramboke, manipulation of Government records, and creation of fabricated deeds.

12. However, in Ext.P1 representation, the petitioner has made allegations about various respondents named in the complaint. In Ext.P1, the petitioner alleged that the additional 3rd respondent is making false claim over the plaint schedule property in OS No.34/2016. It is alleged that the additional 2nd respondent has countersigned a false affidavit. The petitioner also has made allegation regarding certain documents.

13. There are civil disputes between the petitioner and others who are defendants in the OS and a Second Appeal is pending consideration before this Court. As the documents relating to which the petitioner has raised complaints are subject matter of civil litigation, the petitioner will have to agitate those issues in the civil case. It will not be appropriate for this Court to direct the 1st respondent-District



Collector to investigate and adjudicate on those documents, which are subject matter of court proceedings, in this writ petition under Article 226 of the Constitution of India.

14. As regards the allegations of encroachment of river Puramboke, the 1st respondent has categorically stated in the counter affidavit that on coming to know of the complaint, the complaint has been forwarded to the Tahsildar (LR), Konni to conduct enquiry and to take further necessary action. Old survey records are necessary to find out whether there is encroachment of river Puramboke. Old survey records are now collected from the Central Survey Office, Thiruvananthapuram. A detailed survey will be conducted through the Taluk Surveyor and in case of encroachments, steps will be taken to remove such encroachment after conducting the survey.

15. As the 1st respondent has already acted upon the complaint regarding encroachment of river puramboke received from the petitioner and since the survey



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proceedings are underway, the petitioner cannot have any surviving grievance at this stage.

The petitioner is therefore not entitled to any relief in this writ petition. The writ petition is therefore dismissed.

Sd/-
N. NAGARESH, JUDGE

aks/11.04.2025



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APPENDIX OF WP(C) 33354/2023

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE REPRESENTATION OF THE PETITIONER DATED 19.09.2023 SUBMITTED BEFORE THE RESPONDENT
EXHIBIT P2	TRUE COPY OF THE RECEIPT DATED 19.09.2023 ISSUED BY THE TAPAL SECTION OF THE COLLECTORATE, PATHANAMTHITTA
EXHIBIT P3	TRUE COPY OF THE REMINDER OF THE PETITIONER DATED 03.10.2023
EXHIBIT P4	TRUE COPY OF THE ACKNOWLEDGEMENT CARD DATED 03.10.2023, RECEIVING EXHIBIT-P3

RESPONDENT'S EXHIBITS

EXHIBIT R2(12)	A TRUE COPY OF THE ORDER DATED 12-07-2023 IN RSA 452 OF 2023
EXHIBIT R2(3)	A TRUE COPY OF THE AMENDED PLAINT IN O.S. NO. 34/2016 DATED 13-02-2003 FILED BY THE PETITIONER AND HIS TWO SISTERS.
EXHIBIT R2(6)	A TRUE COPY OF THE COUNTER AFFIDAVIT DATED 14-11-2023, WITHOUT EXHIBITS, FILED BY THE 1ST RESPONDENT, WHO IS THE PETITIONER IN THE PRESENT WRIT PETITION
EXHIBIT R2(7)	A TRUE COPY OF THE RTI REPLY DATED 07-05-2019 SENT BY THE PUBLIC INFORMATION OFFICER OF THIS HON'BLE COURT TO THE PETITIONER



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- EXHIBIT R2 (8) A TRUE COPY OF THE RTI REPLY DATED 02-07-2019 SENT BY THE PUBLIC INFORMATION OFFICER OF THIS HON'BLE COURT TO THE PETITIONER
- EXHIBIT R2 (10) A TRUE COPY OF THE RELINQUISHMENT LETTER DATED 08-06-2000 SENT TO THE PETITIONER
- EXHIBIT R2 (9) A TRUE COPY OF THE COUNTER AFFIDAVIT DATED 27-03-2017 IN O.P. (C) 493/2017
- EXHIBIT R2 (11) A TRUE COPY OF THE LETTER DATED 10-10-2023 SENT TO THE HON'BLE CHIEF JUSTICE OF THE HON'BLE KERALA HIGH COURT
- EXHIBIT R2 (14) A TRUE COPY OF THE INTERIM ORDER DATED 08-09-2023 PASSED BY THIS HON'BLE COURT IN R.S.A NO. 452/2023
- EXHIBIT R2 (15) A TRUE COPY OF THE DECISION DATED 15.11.2024 OF THE MEETING OF THE ARUVAPPULAM GRAMA PANCHAYAT
- EXHIBIT R2 (16) A TRUE COPY OF THE ORDER DATED 04-11-2024 IN W.P. (C) 33932/2024
- EXHIBIT R2 (2) A TRUE COPY OF THE WRITTEN STATEMENT DATED 17-11-2003 FILED BY THE DEFENDANTS IN O.S. 84 OF 2003 (RENUMBERED AS O.S. 34/2016)
- EXHIBIT R2 (13) A TRUE COPY OF THE ORDER OF INJUNCTION SIGNED BY THE ASSISTANT REGISTRAR DATED 12-07-2023
- EXHIBIT R2 (4) A TRUE COPY OF THE COMMON JUDGEMENT DATED 30-03-2023 OF THE HON'BLE DISTRICT COURT, PATHANAMTHITTA IN A.S. NO. 15/2021 AND A.S. NO. 16/2021



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EXHIBIT R2 (1)	A TRUE COPY OF THE COMMON JUDGEMENT DATED 12-03-2021 IN O.S. NO. 34/2016 AND O.S. 93 OF 2013 BEFORE THE HON'BLE SUBORDINATE COURT, PATHANAMTHITTA
EXHIBIT R2 (5)	A TRUE COPY OF THE APPEAL MEMORANDUM OF RSA 452 OF 2023 WITHOUT ANNEXURES DATED 28-06-2023