IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 13TH DAY OF JUNE 2024 / 23RD JYAISHTA, 1946

WP(C) NO. 34587 OF 2015

PETITIONERS:

1 HARIKUMAR
AGED 42 YEARS
S/O KONTHUNNI,PENGAMUKKU VEEDU,PENGAMUKKU DESOM, KOTTAGAMPAL VILLAGE,POST PENGAMUKKU,THALAPPILLY TALUK,THRISSUR DISTRICT.

2 SHAJI
AGED 35 YEARS
S/O.SHANMUGHAN,PANDARAPARAMBIL HOUSE,PENGAMUKKU POST,KATTAGAMPAL VILLAGE,THALAPPILLY TALUK, THRISSUR DISTRICT.

3 K.R.GANGADHARAN
AGED 62 YEARS
S/O.RAMAN,KANDIRITHY KYLASAM,AYINOOR,POST PAZHANJI, THRISSUR DISTRICT.

BY ADVS.
SRI.R.SREEHARI
BIJU ABRAHAM
B.G.BHASKAR

RESPONDENTS:

1 C.U.JOSE
AGED 56 YEARS
S/O.UKKURUKUTTY,CHERUVATHOOR HOUSE,PENGAMUKKU POST-680544,(FORMER TRUSTEE,ST.PETER'S AND ST.PAUL'S CHURCH,PENGAMUKKU).

2 SAJAN.C.GEORGE
AGED 49 YEARS
S/O.C.C.GEORGE,CHERUVATHUR HOUSE,PANGAMUKKU POST--680544,(PRESENT TRUSTEE,ST.PETER'S AND ST.PAUL'S CHURCH,PENGAMUKKU).

3 THE ADDITIONAL TAHSILDAR
TALUK OFFICE,THALAPPILLY,WADAKKANCHERY-680582.

4 KATTANGAMPAL GRAMA PANCHAYATH
KATTAGAMPAL POST,THRISSUR DISTRICT,PIN-680542,REPRESENTED BY ITS SECRETARY.

5 THE DISTRICT COLLECTOR
THRISSUR,CIVIL STATION,AYYANTHOLE,THRISSUR-680 003.

6 ST.PETERS AND ST.PAULS JACOBITE CHURCH
PENGAMUKKU,KATTAGAMPAL POST,THRISSUR DIST.680542,REPRESENTED BY ITS TRUSTEE C.V.VAREED, CHEERAN HOUSE,PENGAMUKKU,KATTUGAMPAL-680542.

7 ST.PETERS AND ST.PAULS JACOBITE CHURCH
PENGAMUKKU,KATTAGAMPAL POST,THRISSUR DISTRICT, REPRESENTED BY ITS COMMITTEE MEMBER JOSE MASTER.K.V,S/O.VAREED,KOLLANNUR HOUSE,PENGAMUKKU POST,KATTUGAMPAL,THRISSUR DISTRICT,PIN-680542.

8 DAVID
S/O.CHEERAN CHERU, KANJIRATHINKAL HOUSE, KATTUGAMPAL, PENGAMUKKU POST, THRISSUR DISTRICT, PIN 680 542. (ADMINISTRATOR, PENGAMUKKU ST. PAULS AND ST. PETER'S ORTHODOX SYRIAN CHURCH, PENGAMUKKU.

9 SIMON
65 YEARS, S/O.KURIAN, PULIKOTTIL HOUSE, PENGAMUKKU POST, KATTUGAMPAL, THRISSUR DISTRICT, PIN 680 542. (ADMINISTRATOR, PENGAMUKKU ST. PAULS AND ST. PETER'S ORTHODOX SYRIAN CHURCH, PENGAMUKKU.

10 P.S.BHASKARAN
PENGAMUKKU HOUSE, POST PURANATTUKARA, THRISSUR DISTRICT, PIN 680 551.

BY ADVS.
BIJU ABRAHAM
ANOOP V.NAIR
B.G.BHASKAR

OTHER PRESENT:
SRI.RIYAL DEVASSY, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.06.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN,J.

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W.P (C) No.34587 of 2015

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Dated this the 13th day of June, 2024

JUDGMENT

This writ petition is filed with the following prayers:-

> *"i) Issue a writ of certiorari or other appropriate writ, order or direction, calling for the records leading to passing of the order Exhibit P5 and to quash the same.*
>
> *(b) Issue a writ of Mandamus or other appropriate writ order or direction, directing the 5th Respondent District Collector to reconsider the matter afresh after hearing all affected parties including the petitioners herein and the Respondents 6 to 10.*
>
> *(c) Grant such other reliefs as this Honourable Court may deem fit and proper in the facts and circumstances of the case." (SIC)*

2. It is submitted that the respondent Nos.1 and 2 in this writ petition approached this Court earlier and that writ petition was disposed of as per Ext.P2 judgment. This Court directed to consider the application filed by the petitioners in that case under Section 13A of the Kerala Surveys and Boundaries Act, after conducting necessary enquiries and hearing all affected parties. It is the case of the petitioners that the petitioners are necessary parties to be heard. The

petitioners submitted Exts.P3 and P4 before the District Collector narrating their grievance. It is also submitted that a suit is filed by the Church as evident by Ext.P6 plaint. Without considering all these and without hearing the petitioners, Ext.P5 order is passed. Aggrieved by the same, this writ petition is filed.

3. Heard the learned counsel for the petitioners and the learned Government Pleader.

4. Even though a vakalath is filed by a lawyer for respondent nos.1, 2, 8 and 9, the counsel appeared for respondent nos.1,2,8 and 9 submitted that he relinquished his vakalath. There is no appearance for those respondents.

5. The short point raised by the petitioners is that the petitioners are the necessary parties to be heard before passing Ext.P5 order and no opportunity of hearing is given to the petitioners. It is also submitted that the suit filed by the Church is already dismissed and the appeal also dismissed. If that is the case, I am of the considered opinion that, there can be a direction to reconsider the matter by the 1st respondent. To facilitate the 1st respondent to reconsider the matter, Ext.P5 can be set aside.

Therefore, this writ petition is disposed of with the following directions:-

1) Ext.P5 is set aside.

2) The 1st respondent is directed to reconsider the matter, after giving an opportunity of hearing to the petitioners and respondent nos.1,2,4 and 6 to 10, as expeditiously as possible, at any rate, within four months from the date of receipt of a certified copy of this judgment.

3) Since a status quo order is passed by this Court at the time of admission, the status quo will continue till final orders are passed as directed above.

Sd/-

P.V.KUNHIKRISHNAN
JUDGE

bng

APPENDIX OF WP(C) 34587/2015

PETITIONER EXHIBITS

EXHIBIT P1	**PHOTOCOPY OF WP(C)16100/2014 WITH EXHIBITS**
EXHIBIT P2	**PHOTOCOPY OF JUDGMENT IN WP(C)16100/2014 DATED 90-7-2014**
EXHIBIT P3	**PHOTOCOPY OF THE PETITION FILED BY THE PETITIONERS BEFORE THE 5TH RESPONDENT**
EXHIBIT P4	**PHOTOCOPY OF THE PETITION FILED BY THE 10TH RESPONDENT BEFORE THE 5TH RESPONDENT DT.12-6-2015**
EXHIBIT P5	**PHOTOCOPY OF THE ORDER NO.37864/2014/B1 DT.18-06-2015 OF THE 5TH RESPONDENT WITH COVERING LETTER**
EXHIBIT P6	**PHOTOCOPY OF THE PLAINT IN O.S.310/2011 OF MUNSIFF'S COURT,CHAVAKKAD**
EXHIBIT P7	**PHOTOCOPY OF THE JUDGMENT IN CMA 41/2011 OF 1ST ADDITIONAL DISTRICT COURT,THRISSUR DATED 21/07/2011**
EXHIBIT P8	**PHOTOCOPY OF THE WRITTEN STATEMENT FILED IN O.S.310/2011 OF MUNSIFF COURT, CHAVAKKAD BY THE PETITIONERS 1 AND 2.**
EXHIBIT P9	**PHOTOCOPY OF THE WRITTEN STATEMENT FILED IN O.S.310/2011 OF MUNSIFF COURT, CHAVAKKAD BY THE RESPONDENTS 8 AND 9**
EXHIBIT P10	**PHOTOCOPY OF THE WRITTEN STATEMENT FILED IN O.S.310/2011 OF MUNSIFF COURT, CHAVAKKAD BY THE 3RD RESPONDENT**
EXHIBIT P11	**PHOTOCOPY OF THE WRITTEN STATEMENT FILED IN O.S.310/2011 OF MUNSIFF COURT, CHAVAKKAD BY THE 10TH RESPONDENT**
EXHIBIT P12	**PHOTOCOPY OF THE NOTICE DATED 19-03-2011 BY THE 3RD RESPONDENT.**