

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 13<sup>TH</sup> 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, AYINOR, POST PAZHANJI,  
          THRISSUR DISTRICT.
- BY ADVS.  
          SRI.R.SREEHARI

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, PULIKOTIL 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 13<sup>th</sup> 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 5<sup>th</sup> 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 1<sup>st</sup> respondent. To facilitate the 1<sup>st</sup> 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 1<sup>st</sup> 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.