



2025:KER:14119

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

WEDNESDAY, THE 19TH DAY OF FEBRUARY 2025 / 30TH MAGHA, 1946

WP(C) NO. 35788 OF 2019

PETITIONER:

**NILEMEL GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY IN CHARGE,
PRAVEEN.S, S/O.SASIKALAN PILLAI, SIVAPRIYAM,
THAZHAMEL, ANCHAL P.O.- 691535.**

BY ADV SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR,
KOLLAM- 691008.**
- 2 KOLLAM DISTRICT CO-OPERATIVE BANK,
KOLLAM, REP. BY GENERAL MANAGER,
KOLLAM- 691003.**
- 3 THE BRANCH MANAGER,
KOLLAM DISTRICT CO-OPERATIVE BANK,
NILEMEL BRANCH, KOLLAM- 691535.**
- 4 TAHASILDAR,
ANCHAL TALUK, KOLLAM DISTRICT-691306.**
- 5 STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, THIRUVANANTHAPURAM- 695001.**

BY ADVS.

**SRI.P.C.SASIDHARAN, SC, ADAT FARMERS SERVICE CO-
OPERATIVE BANK LTD.**



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OTHER PRESENT:

SMT. SURYA BINOY, SR.GP

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.02.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**



JUDGMENT

The petitioner a Panchayat states that it is having a shopping complex, wherein the 2nd respondent is one among the tenants.

2. Claiming that the 2nd respondent was not agreeable for remitting the enhanced rent, on account of which there was arrears in rent, the petitioner Panchayat initiated steps under the Kerala Public Buildings (Eviction of Unauthorized Occupants) Act,1968, and against the final order passed, the 2nd respondent filed an appeal to the District Collector.

3. The District Collector by Ext.P15 disposed of the afore appeal finding that, as per the revenue records, the property wherein the shopping complex is situated, is a Government puramboke land. On account of the afore findings, the District Collector found that the building has been constructed by encroaching into the Government land and hence, the provisions of the afore statute cannot be invoked by the Petitioner Panchayat.



4. The order further directs that appropriate steps will be taken to evict both the petitioner as well as the 2nd respondent tenant from the premises.

5. It is in such circumstances that the captioned writ petition is filed by the petitioner, challenging Ext.P15.

6. I have heard Sri.T.M.Abddul Latiff, the learned counsel for the petitioner, Smt.Surya Binoy, the learned Senior Government Pleader for 1st, 4th and 5th respondents and Sri.P.C.Sasidharan, the learned counsel for 2nd and 3rd respondents.

7. The petitioner is now facing a predicament. The petitioner claims that it has constructed a shopping complex wherein the 2nd respondent is one among the tenants. When an order under the Act seeking eviction of the 2nd respondent is issued and an appeal is filed by the 2nd respondent before the District Collector, the District Collector now finds that the property does not belong to the petitioner herein. However, I notice that the petitioner has a



claim that, even assuming that the land does not belong to the petitioner, it is justified in filing the application since the building was constructed by the petitioner, according to it. The consideration made in Ext.P15, I am of the opinion was purely on the basis of an assumption that in a land belonging to the Government, there cannot be a building constructed by the petitioner even if, it is so.

8. In such circumstances, insofar as there is disputed question of facts, as regards the land in question and the ownership of the building constructed in that land, I am of the opinion that, it is for the petitioner to file an appropriate representation to the Government seeking assignment of the land in question especially when the petitioner has a case that the building has been constructed years back.

9. I also take note of Ext.P11 issued by the 2nd respondent to the petitioner herein, undertaking to satisfy the rent as per the PWD specifications.

In such circumstances, this writ petition would stand disposed of as under:-



- i. The petitioner to file an appropriate representation to the Government pointing out the facts and figures and seeking assignment of the land in question, within a period of four weeks from today.
- ii. If such a representation is being filed by the petitioner, the Government to consider the same and pass appropriate orders, in accordance with law also taking note of the contention raised by the petitioner that the building in question was constructed years back, within a further period of twelve weeks thereafter.
- iii. The Government to extend the petitioner an opportunity of being heard.
- iv. The 2nd respondent, in the mean time, to satisfy the amounts as admitted in Ext.P11 as recorded in Ext.P15 (Rs.18,660/- per



month) representing the rent due to the petitioner herein.

Sd/-
HARISANKAR V. MENON
JUDGE

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APPENDIX OF WP(C) 35788/2019

PETITIONER EXHIBITS

EXHIBIT P1	COPY OF THE FORM NO.1 OF THE BTR.
EXHIBIT P2	COPY OF THE LEASE DEED DATED 18.02.2008.
EXHIBIT P3	COPY OF THE LETTER DATED 22.06.2016.
EXHIBIT P4	COPY OF THE LETTER DATED 21.11.2018 ISSUED BY THE SECRETARY OF THE PANCHAYAT TO THE MANAGER OF THE BANK REQUESTED TO VACATE THE BUILDING ON OR BEFORE 30.06.2019.
EXHIBIT P5	COPY OF THE NOTICE DATED 13.02.2019.
EXHIBIT P6	COPY OF THE LETTER DATED 05.02.2019.
EXHIBIT P7	LETTER DATED 25.02.2019 ISSUED BY THE PANCHAYAT REQUESTED TO VACATE THE BUILDING ON OR BEFORE 30.06.2019.
EXHIBIT P8	COPY OF THE LETTER DATED 31.05.2019.
EXHIBIT P9	COPY OF THE LETTER DATED 18.06.2019.
EXHIBIT P10	COPY OF THE NOTICE DATED 17.06.2019.
EXHIBIT P11	COPY OF THE LETTER DATED 11.07.2019.
EXHIBIT P12	COPY OF THE RESOLUTION DATED 15.07.2019.
EXHIBIT P13	NOTICE DATED 29.07.2019.
EXHIBIT P14	COPY OF THE APPEAL MEMORANDUM FILED BY THE 2ND RESPONDENT.
EXHIBIT P15	COPY OF THE PROCEEDING OF THE 1ST RESPONDENT DATED 25.11.2019.



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RESPONDENT EXHIBITS

Exhibit R2(a)

**TRUE COPY OF THE LEASE DEED DATED
18/2/2008.**