

(2011) 01 KL CK 0109

In the High Court Of Kerala

Case No : Writ Petition (C) No. 2465 of 2011 (G)

Baby Likhitha

APPELLANT

Vs

District Collector, The Additional Tahsildar, The Tahsildar and
The Village Officer

RESPONDENT

Date of Decision : 25-01-2011

Acts Referred:

Citation : (2011) 01 KL CK 0109

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : B. Krishna Mani, for the Appellant; No Appearance, for the Respondent

Judgement

Antony Dominic, J.—Petitioner submits that on the southern extremity of her property, there was a temporary compound wall, which was being repaired on a periodical basis. It is stated that, in the place of the temporary compound wall, the Petitioner wanted to construct a pucca compound wall and that soon after the work commenced, Ext.P1 stop memo was issued directing the Petitioner not to continue the work. According to the Petitioner, thereupon she submitted Exts.P2 and P3 representations to the District Collector objecting to Ext.P1.

2. It is also her case that against the persons at whose instance Ext.P1 stop memo was issued, Petitioner filed OS 67/2010 before the Munsiff Court, Punalur, the plaint of which is Ext.P4 and has obtained an order of injunction. It is stated that, in the meanwhile, the District Collector has issued Ext.P6 order concluding that the Petitioner has trespassed into the thodu puramboke and unauthorisedly constructed the compound wall. Ext.P6 further says that instructions have been issued to the Additional Tahsildar to initiate proceedings against the Petitioner under the Kerala Land Conservancy Act. It is challenging Ext.P6, the writ petition is filed. It is the case of the Petitioner that she has not trespassed into any puramboke property and that the proceedings evidenced by Ext.P6 is illegal and unauthorised.

3. In my view, Ext.P6 need only be taken as an administrative order and that in pursuance to Ext.P6, it is for the Tahsildar to take appropriate action in accordance with law viz, the Kerala Land Conservancy Act. This necessarily will depend upon the satisfaction of the Tahsildar, the statutory authority, as to whether a case has been made out to proceed against the Petitioner under the Kerala Land Conservancy Act and such satisfaction shall be untrammelled by the contents of Ext.P6. If such proceedings are initiated, at that stage, it is always open to the Petitioner to resist the same pointing out her objections and it is for the Tahsildar to decide the issue as well. Therefore, even inspite of Ext.P6, if any step is taken by the Tahsildar at that stage, Petitioner has to seek redressal of his grievance.

4. Therefore, clarifying that pursuant to Ext.P6, if the Tahsildar initiates any action, it will be open to the Petitioner to file her objections and that the Tahsildar will thereupon decide the matter in accordance with law, the writ petition is disposed of.

5. Petitioner to produce a copy of this judgment along with a copy of this writ petition before the 2nd Respondent, who is ordered to take further action in the matter on Ext.P6.