
(2021) 06 KL CK 0445
In the High Court Of Kerala
Case No : Writ Petition (C) No. 24891 Of 2020

Nafeesath V.K.P

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 30-06-2021

Acts Referred:

Citation : (2021) 06 KL CK 0445

Hon'ble Judges : N.Nagaresh, J

Bench : Single Bench

Advocate : P.K.Ravi Sankar, T.K.Vipindas, Manu Raj, Muhammed Hussain Km

Final Decision : Disposed Of

Judgement

N. Nagaresh, J

1. Petitioner is the owner of 64 cents of land in Valiyaparambu Village in Kasaragod District. The petitioner has been holding a lease in respect of the Panchayat land. The Panchayat refused to renew the lease.

2. It is the contention of the petitioner that while the leasehold right of the petitioner was not renewed by the Panchayat, the same Panchayat leased out 1 cent of land to the 6th respondent. The petitioner would submit that the 6th respondent is occupying not the land actually leased out to him but a different land. The land occupied by the 6th respondent is part of a river.

3. The petitioner submits that the Panchayat has no right to lease out any portions of river. Therefore, the assignment granted to the 6th respondent by way of lease is illegal and unsustainable. The further grievance of the petitioner is that though the 6th respondent has been granted lease for 1 cent of land as per Ext.P13, the 6th respondent is occupying a different piece of land causing inconvenience to the petitioner. In spite of that, the Panchayat is

not taking any steps to set right the illegality.

4. Heard learned counsel for the petitioner and learned Standing Counsel appearing for respondents 3 and 4. I have also heard learned Government

Pleader representing respondents 1, 2 and 5.

5. As pointed out by the learned counsel for the petitioner, the petitioner is aggrieved by the action of the respondents in leasing out a part of the river

to the 6th respondent which, according to the petitioner, is unsustainable. The 6th respondent is occupying a different portion than the one leased out

under Ext.P13, contends the petitioner. The learned Standing Counsel for the Panchayat would oppose the allegations levelled by the petitioner and

would justify Ext.P13 assignment.

6. After going through the pleadings in the writ petition and hearing the arguments raised by either side, this Court finds that whether the 6th

respondent is occupying the land leased out under Ext.P13 or a different piece of land/river, is a question of fact which this Court cannot adjudicate in

writ proceedings. This Court finds that the petitioner has raised his grievance before the Secretary to the Panchayat, in Ext.P14 representation.

In the facts and circumstances of the case, the writ petition is disposed of directing respondents 3 and 4 to consider Ext.P14 and take appropriate

action thereon, if any warranted, in accordance with law. A decision on Ext.P14 shall be taken within two months, if necessary after hearing the

parties affected.