

(2026) 01 KL CK 1713
In the High Court Of Kerala
Case No : Writ Petition (C) No.47857 Of 2025

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APPELLANT

Vs

Secretary , Angadippuram Grama Panchayat Po
Angadippuram

RESPONDENT

Date of Decision : 30-01-2026

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Kerala High Court Rules 1971 — Rule 147, 154

Citation : (2026) 01 KL CK 1713

Hon'ble Judges : P.V. Kunhikrishnan, J

Bench : Single Bench

Advocate : Muhammed Zain Shabeer P.P., Shibu Babu, Riyas B.S., Arun Kumar C.S., Anish M.M, Muhammadali Manekkathodi, Dhanya Palan, Vimal Kumar.A.V., P.Abdul Nishad, Vidya Kuriakose

Final Decision : Disposed Of

Judgement

P.V. Kunhikrishnan, J

1. This writ petition is filed with the following prayers:

i. Issue a writ of mandamus or any other appropriate writ, order or direction restraining Respondent Nos.1 to 8 from assigning or granting any building number or occupancy certificate to the building constructed by Respondents 9 & 10 in the subject paddy wetland, and further directing that no steps be taken to regularize or legitimize the said illegal construction in any manner.

ii. Issue a writ of mandamus or other appropriate writ, order or direction calling for the records of the building permit (Exhibit P2) issued by Respondent No.1 to Respondents 9 & 10, quash the said building permit as being illegal, ultra vires and void ab initio, and declare that any construction carried out on the strength of Exhibit P2 is unauthorized and without legal sanction.

iii. Issue a writ of mandamus or direction to Respondent Nos.1 to 8 to forthwith

stop all construction activity in the 28 cents of paddy land (Survey No. 4/1-6, classified as Nanja II / Wetland II) owned by Respondents 9 & 10 in Angadippuram Village, and to prohibit any further encroachment or development on the said land contrary to its status as paddy wetland.

iv. Issue a writ of mandamus or appropriate direction declaring that the Stop Memo dated 23.03.2023 (Exhibit P10) issued by Respondent No.6 (Village Officer) to Respondents 9 & 10 was legal and justified, and that the said Stop Memo shall be deemed to be in force (notwithstanding its earlier quashing under misinformed circumstances), until the illegal construction is demolished and the land restored, or until further orders of this Hon'ble Court.

v. Issue a writ of mandamus or any other appropriate writ, order or direction directing Respondents 1 to 8 to take immediate steps to demolish or remove the structure/building constructed by Respondents 9 & 10 on the paddy land in question, and to restore the said land to its original condition as a paddy field, by exercising the powers conferred under the Kerala Conservation of Paddy Land and Wetland Act, 2008 and other enabling provisions of law.

vi. Issue a declaratory writ or order declaring that the land comprised in Survey No. 4/1-6, admeasuring 28 cents (11.332 Ares) in Angadippuram Village (Malappuram District), is included in the Paddy Land Data Bank maintained under the 2008 Act and was never converted prior to 12.08.2008 (the commencement of the Act), and consequently that no conversion or use of the said land for non-agricultural purposes is permissible except in strict compliance with the provisions of the 2008 Act and the orders of competent authorities thereunder.

vii. Dispense with filing of the translation of vernacular documents.

viii. Grant such other and further reliefs as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

(SIC)

2. When the statement of facts in this writ petition is perused, it is seen that the exhibits produced along with this writ petition are not marked as a copy of the original, but the exhibits are shown in brackets after stating the facts. Of course, in the affidavit accompanying the writ petition, it is stated that the documents produced are true copies of the original documents. Whether such an averment alone is sufficient or the exhibits are to be marked in the statement of facts is the question to be decided. It will be better to extract paragraph 1 of the statement of facts of this writ petition to show how Exhibit P1 is produced.

"The petitioner is a devoted farmer engaged in paddy cultivation in Angadipuram village, Malappuram district. In recognition of his efforts, he was awarded the best farmer (paddy) award in 2016 by the Angadipuram Grama Panchayat's Krishi Bhavan (Exhibit P1). The petitioner cultivates paddy land in the vicinity of the dispute wetland property, and his livelihood depends on the ecological health of the local wetland and paddy fields".

3. I am of the considered opinion that this is not the manner in which a document is to be marked in the statement of facts in a writ petition. In addition to the proof of facts and documents by rendering an affidavit as contemplated in Rule 154 of the Kerala High Court Rules 1971 (for short Rules 1971), the description of the document has to be provided, and thereafter it should be marked in the statement of facts or grounds of the writ petition. The marked exhibits should also be shown in the index. Senior Government pleader Smt.Vidya Kuriakose made available two judgments of the Division Bench of this court. The first is the judgment dated 23.03.2022 in WP(C) No. 24300/2021. The relevant portion of the judgment is extracted hereunder:

72. As per sub-rule (4) of Rule 35 of the Rules of High Court of Kerala, 1971, all main proceedings shall contain an index sheet placed immediately below the covering sheet, setting forth the brief description of the contents therein with reference to the respective page numbers. The description of each and every document has to be provided in the statement of facts of the writ petition and in the affidavit filed in support of an interlocutory application or counter affidavit or reply affidavit, as the case may be, which shall contain a brief description of that document. In paragraph 5 of the writ petition Exts.P1 to P12 are marked as follows:

"5. Copies of the Settlement Register, BTR, Permit granted by the Petroleum Ministry, Permit granted by the District Town Planner, consent issued by the Pollution Control board, circular of the Pollution Control Board, No Objection Certificate issued by the Additional District Magistrate, consent letter given by the Fire and Rescue Department, representation given by the worshippers, resolution of the Panchayath, Licence issued by the Additional District Magistrate and Pattazhy Devaswom Lands (Vesting and Enfranchisement) Act are produced and marked as Exhibit.P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11 and P-12."

(Emphasis supplied)

4. Second is the order dated 20.03.2019 in OP(KAT) No.119/2019, wherein another Division Bench of this Court observed like this:

"The intermingling of Annexures and Exhibits in O.P (KAT) and O.P (CAT) leads to good lot of confusion. The Registry may contemplate the marking of documents as Exhibits only in the original petitions. The Annexures exhibited in the O.A before the Tribunal can be marked as Exts. P1 (a), P1(b) etc."

5. In Siddique v. District Collector and Others [2006 KHC 1032], a learned single judge of this court observed as follows:

"15. For the purpose of convenience, the High Court Rules which govern the procedure, are grouped into Chapters. Chap.11 is captioned as "Proceedings Under Art.226 and 227 of the Constitution". Such provisions as may be relevant from out of Chap.3 relating to "Form and Institution of Proceedings", Chap.6

relating to "Affidavits" and other Chapters relating to different matters, would apply to proceedings under Art.226 and 227 of the Constitution. The relevant rules in Chap.9, Chap.3, Chap.6 and elsewhere in the High Court Rules work in unison in relation to institution of proceedings under Art.226 or 227 of the Constitution.

16. R.147 of the High Court Rules enumerates the documents that are to accompany petitions under Art.226 and 227 of the Constitution. Among other things, they include an affidavit verifying the facts relied on and a schedule of the documents relied on in the affidavit with copies of such of those documents as are in the possession of the petitioner. Sub-r.(2) of R.147 requires that the copies of the documents shall be authenticated as true copies by the advocate, and, if there is no advocate, by the party. R.82 requires that every affidavit shall clearly express how much is a statement of the deponent's knowledge and how much is statement of his belief. This is required to be done in Form No. 7 of the High Court Rules. The grounds of belief must be stated with sufficient particularity to enable the Court to judge whether it would be safe to act on the deponent's belief. R.80 requires that the documents mentioned in and accompanying an affidavit shall be referred to as exhibits and shall be marked in the same manner as exhibits and shall bear a certificate as in Form No. 6 signed by the person before whom the affidavit is sworn or affirmed. Reading R.80 with R.147(2), the authentication at the foot of a document which is exhibited in a writ petition has to be necessarily made by stating that the document is a true copy of the original. The ultimate requirement is for the Court to judge as to whether it would be safe to act on the deponent's statement. So much so, if the original of a document that is produced as an exhibit in a writ petition is in the custody of the writ petitioner, it is necessary that such a statement finds a place in the affidavit. Otherwise, the copy need not inspire confidence in the mind of the Court. If the original of the document is not in the possession of the petitioner and yet he is in possession of a copy which he believes to be true and which is required to be tendered along with the writ petition, such a petitioner has to state so in his affidavit, as also the source of the copy and as to whether he believes that its contents are true. R.154 provides that proof of facts and documents shall be tendered by affidavit. Writ petitions are primarily decided, going by the particulars, on the basis of affidavits. An allegation as to the existence of a fact needs to be supported by an affidavit. Similarly, the proof of a document has to be by an affidavit. All these are the requirements of R.154 of the High Court Rules, which Rule is built on the cardinal rule of judicial procedures that one, who asserts a fact, has to stand by it and show prima facie evidence of such fact. In writ proceedings, he is entitled to do so by filing affidavit. This means that the affidavit filed in support of a writ petition and presented in terms of R.147(1)(a) shall contain clear statements in proof of the facts stated in the writ petition and also in proof of the documents tendered along with the writ petition. Short of that, the affidavit or the writ petition is not entitled to be entertained. This is because, R.146 requires that the applicant shall

set out, among other things, a clear and concise statement of facts and the grounds on which the relief is sought. Such statements require to be supported by affidavits and on the practical side of things, it is most appropriate that such statements are made in the affidavit itself.”

(underline supplied)

6. Keeping in mind the above principle, it is mandatory that the marking of the documents with a description is necessary in the statement of facts or in the grounds of the writ petition. This is the procedure followed by this court for decades. How these defects are not noted by the registry is surprising. The Registry has erred in numbering this writ petition without proper marking of the exhibits in the writ petition.

7. The counsel for the petitioner submitted that he will file an amendment petition in the writ petition. That will create a mass in the pleadings because many exhibits are incorrectly marked in the writ petition. I am of the considered opinion that the petitioner has to file a fresh writ petition with proper pleadings.

Granting liberty to the petitioner to file a fresh writ petition with proper pleadings, this Writ Petition is disposed of.