
(2021) 01 KL CK 0113
In the High Court Of Kerala
Case No : Writ Petition (C) No. 12197 Of 2020

S. Jesuraj

APPELLANT

Vs

Village Officer And Ors

RESPONDENT

Date of Decision : 05-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0113

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : Johnson Manayani, Rashmi K.M

Final Decision : Dismissed

Judgement

1. The petitioner has approached this Court aggrieved by Exts.P8 and P9. By Exts.P8 and P9, the petitioner was refrained from making any unauthorised construction in the land owned by him in survey No.20/1-2 in KDH Village, Devikulam Taluk.

2. The petitioner contends that due to landslide, huge quantity of soil and mud fell adjacent to his building, the removal of which is highly necessary for the safety of the building. On 25.06.2020 this Court passed an interim order directing the respondents to permit the petitioner to remove the slit and sand from the site in question specifically as provided in Ext.P7 permission without making any constructions or alterations in the building, within three weeks.

3. The petitioner would submit that pursuant to the interim order of this Court, soil and mud were removed, but certain more quantity of soil and mud is remaining in the compound. The learned counsel for the petitioner would further submit that certain repair works are necessarily to be made to the building. The petitioner may be permitted to remove the remaining mud and repair the building.

4. The learned Government Pleader on the other hand contended that the

petitioner had resorted to unauthorised construction without permission earlier and that was the circumstance under which Ext.P9 stop memo had to be issued. The intention of the petitioner is to make construction without permission. Therefore no relief need be granted to the petitioner.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

6. The landslide occurred in the year 2018 in the area, is not disputed. The grievance highlighted by the petitioner is that even after removing the soil and mud pursuant to the directions of this Court, some more soil/mud is remaining in the compound, removal of which is highly necessary for the safety of the property. The petitioner also has to make certain repairs to building, not amounting to construction or reconstruction. In the circumstances, this Court is of the opinion that the writ petition can be disposed of with appropriate directions.

7. Accordingly, the writ petitioner is permitted to make an application to the 3rd respondent for removal of soil/mud from his compound. The 3rd respondent shall consider such request and grant permission as is permissible under law. The petitioner may also make a proposal before the 3rd respondent describing the repairs proposed by the petitioner, to the building. If the proposal does not amount to construction or reconstruction or material alteration of the building, the 3rd respondent shall permit the petitioner to carry out such repairs.

The writ petition is disposed of with the above directions.