
(2022) 07 KL CK 0134
In the High Court Of Kerala
Case No : Writ Petition (C) No. 19203 Of 2022

Sabu P.S.

APPELLANT

Vs

District Disaster Management Authority

RESPONDENT

Date of Decision : 14-07-2022

Acts Referred:

Citation : (2022) 07 KL CK 0134

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

Bench : Single Bench

Advocate : T.Madhu, C.R.Saradamani, Shahid Azeez, Reshma Santhosh, Renjish S. Menon, Ashwin Sethumadhavan

Final Decision : Disposed Of

Judgement

P.V.Kunhikrishnan, J

1. The above writ petition is filed with following prayers :

"i) Issue a writ of mandamus or any other writ direction or order directing the respondents 5 and 6 to comply the directions contained in Ext P4 order dated 11.11.2021 passed by the first respondent as expeditiously as possible and within a time frame to be fixed by this Hon'ble Court, so as to secure the ends of justice,

And

ii) Such other relief's as this Hon'ble Court may deem fit and proper in the circumstances of the case." [SIC]

2. The petitioner is the owner in possession of 4 ares of landed property comprised in Survey No. 208/7 of Chirakkadavu Village with a residential building in it. It is the case of the petitioner that on 16.10.2021, there was a landslide occurred on the north eastern side of the property and caused substantial damage to the house and property of the petitioner. On 20.10.2021, the petitioner filed Ext.P2 complaint before the District Collector, Kottayam. On

23.10.2021, the District Collector, Kottayam in his capacity as the Chairman District Disaster Management Authority passed Ext.P3 order whereby directing the owner of the property to remove the earth and to make habitation in the residential house of the petitioner. Since there is an ownership dispute regarding the property from which the landslide to the property of the petitioner has occurred, the 1st respondent directed the 5th respondent to remove the earth and to construct a retaining wall to the lowest bench as the earth was ordered to be removed by creating benches to avoid further landslides. Retaining wall was ordered to be constructed as per Clause No.5 of Ext.P4 order. It is also stated that the expenses required for constructing the retaining wall was ordered to be met from the amount obtained by the Panchayat by auctioning the earth fell into the property of the petitioner due to landslide. It is the case of the petitioner that even though 2700 M3 earth has to be removed, only 1667 M3 earth is removed by the 5th respondent. Retention wall is also not constructed in compliance of the directions of the 1st respondent as per Ext.P4 order, is the submission of the petitioner. Since Exts.P3 and P4 orders are passed by the 1st respondent by invoking the powers of the 1st respondent under the Disaster Management Act, it is submitted that the respondent Nos. 5 and 6 are bound to comply the directions complied in Exts.P3 and P4 orders. Hence, this writ petition.

3. Heard the learned counsel for the petitioner and the learned Government Pleader. Even though notice is issued to respondent Nos. 5 and 6, there is no appearance for respondent Nos.5 and 6.

4. I perused Ext.P4 order. As per Ext.P4, certain directions are issued to the 5th and 6th respondents. The 5th and 6th respondents are duty bound to obey the same.

Therefore, this writ petition is disposed of with the following directions :

1) There will be a direction to the respondent Nos. 5 and 6 to comply the directions contained in Ext.P4 order dated 11.11.2021 passed by the 1st respondent as expeditiously as possible, at any rate, within 15 days from the date of receipt of a copy of this judgment.