

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

TUESDAY, THE 12TH DAY OF MAY 2020 / 22ND VAISAKHA, 1942

WP(C).NO.9748 OF 2020

PETITIONER:

SUBIN GEORGE, S/O.A.P. GEORGE,
AGED 35 YEARS, EDATHALA HOUSE,
NEELEESWARAM P.O., KALADY,
ERNAKULAM DISTRICT.

BY ADV.SRI. BABU S. NAIR

RESPONDENTS:-

1. THE DIVISIONAL FOREST OFFICER,
MALAYATTOOR DIVISION,
ERNAKULAM DISTRICT, PIN - 683 587.
2. THE FOREST RANGE OFFICER,
FOREST RANGE OFFICE,
KALADY, ERNAKULAM DISTRICT, PIN - 683 574

BY SPL.GOVERNMENT PLEADER SRI.SANDESH RAJ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12.05.2020, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ASHOK MENON, J.

WP(C) No.9748 of 2020

Dated this the 12th day of May, 2020

J U D G M E N T

The petitioner seeks permission to use the Idamalayar Irrigation Project Canal Bund Road for transporting his articles in connection with the tar mixing plant. He is a contractor and he has to complete the tarring work before the monsoon starts. However, Ext.P1 judgment of this Court has already found that the petitioner has no right to use the particular disputed road, which belongs exclusively to the Forest Department and has been given for the use of the Idamalayar Project alone. Ext.P1 judgment has been confirmed by the Division Bench of this Court in Ext.P2, wherein also it is specifically found that the petitioner has alternate route to access his property, where his articles are stored and that he has no right to use the disputed canal bund road. The petitioner has requested that his articles are lying in a place, where from it has to be transported through this particular road and hence made Ext.P9 request, which has been disregarded by the 2nd respondent, Forest Range Officer vide Ext.P10. The petitioner has not preferred

any appeal over that before the 1st respondent, Divisional Forest Officer. In view of the specific finding in Ext.P2, it may not be appropriate for this Court to pass any specific orders. However, the refusal of Ext.P9 request made by the petitioner has not been challenged before the 1st respondent. Leaving open his remedy to challenge Ext.P10 order before the 1st respondent, this Writ Petition is disposed of. The 1st respondent shall consider his request in appeal, if any, filed by him, and appropriate orders shall be passed in accordance with law.

**ASHOK MENON
JUDGE**

dkr

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT P1:- TRUE COPY OF THE JUDGMENT DATED, 1-4-2019 IN W.P. (C)NO.36926/18 & CONNECTED CASES OF THIS COURT.

EXHIBIT P2:- TRUE COPY OF THE JUDGMENT DATED 12-4-2019 OF THIS COURT IN W.A.NO.1144/2019.

EXHIBIT P3:- TRUE COPY OF THE WORK ORDER ISSUED TO THE PETITIONER'S FIRM DATED, 21-2-2019.

EXHIBIT P4:- TRUE COPY OF THE WORK ORDER ISSUED TO THE PETITIONER'S FIRM DATED 24-01-2019.

EXHIBIT P5:- TRUE COPY OF THE WORK ORDER ISSUED TO THE PETITIONER'S FIRM DATED 25-01-2019.

EXHIBIT P6:- TRUE COPY OF THE WORK ORDER ISSUED TO THE PETITIONER'S FIRM DATED 28-09-2019.

EXHIBIT P7:- TRUE COPY OF THE WORK ORDER ISSUED TO THE PETITIONER'S FIRM DT., 29-06-2019 AS ISO/MOE-5/8627/19.

EXHIBIT P8:- TRUE COPY OF THE WORK ORDER ISSUED TO THE PETITIONER'S FIRM DT, 29-06-2019 AS ISO/MOE-5/8626/19.

EXHIBIT P9:- TRUE COPY OF THE REQUEST MADE BY THE PETITIONER DATED 4-1-2020 BEFORE THE FIRST RESPONDENT AND ANOTHER.

EXHIBIT P10:- TRUE COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT DATED 16-1-2020.