



2026:KER:10618

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

THURSDAY, THE 5<sup>TH</sup> DAY OF FEBRUARY 2026 / 16TH MAGHA, 1947

WP(C) NO. 6036 OF 2021

PETITIONERS:

- 1 LIFIN SEBASTIAN  
AGED 39 YEARS  
S/O. SEBASTIAN THOMAS, MUTTATH HOUSE, KANJIRAPALLY P.O.,  
KOTTAYAM, PIN-686507.
- 2 LEO SEBASTIAN,  
AGED 41 YEARS  
S/O. SEBASTIAN THOMAS, MUTTATH HOUSE, KANJIRAPALLY P.O.,  
KOTTAYAM, PIN-686507.

BY ADVS.  
SRI.M.K.ABOOBACKER  
SRI.D.M.NOWFAL  
SRI.A.E.ABDUL KALAM  
SMT.RINOOJA.P.A  
SHRI.T.M.YUSAFF

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR, ERNAKULAM  
CIVIL STATION, PIN-682030.
- 2 THE TAHASILDAR,  
KUNNATHUNADU TALUK, KUNNATHUNADU, PERUMBAVOOR, PIN-683542.
- 3 THE VILLAGE OFFICER,  
MAZHUVANNOOR VILLAGE, MAZHUVANNOOR, PIN-686669.

GP- ADV RIYAL DEVASSY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
05.02.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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**'C.R.'**

**JUDGMENT**

*Dated this the 5<sup>th</sup> day of February, 2026*

Petitioners have approached this Court seeking to quash Ext.P6, whereby the request made by the 1<sup>st</sup> petitioner for putting up a gate on the road puramboke was declined.

2. Petitioners are brothers. The 1<sup>st</sup> petitioner owns 4.05 ares of land, and the 2<sup>nd</sup> petitioner is in ownership and possession of 67.58 ares of land, and the said properties are lying contiguously as a single plot. Between the properties of the petitioners and the road, there exists a road puramboke having an extent of 1.35 cents in a triangular shape, and the petitioners are using this land as a passage for ingress and egress to their properties from the main road. Petitioners submit that the said land cannot be used for any other purpose due to its tiny extent and its shape. Thereupon, the 1<sup>st</sup> petitioner submitted Ext.P5 application to allow him to erect a gate in the puramboke property and to have access to the public road through the puramboke land. The said application has been rejected by Ext.P6, stating that no permission can be granted to erect a gate in the road puramboke as per the provisions of the Kerala Land Conservancy Act, 1957. It is aggrieved by the same that the present writ petition has been filed.



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3. I have heard the learned Counsel for the petitioners and the learned Government Pleader.

4. Section 5 of the Kerala Land Conservancy Act, 1957 (for short, 'the Act, 1957') is extracted below:-

***"5. Land which is the property of Government not to be occupied without permission.-***

*(1) From and after the commencement of this Act, it shall not be lawful for any person to occupy a land which is the property of Government, whether a poramboke or not, without permission from the Government as may be empowered in this behalf.*

***[Explanation.-*** For the removal of doubts it is hereby declared that the erection of any wall, fence or building or the putting up of any over-hanging structure or projection (whether on a temporary or permanent basis) on or over any land aforesaid shall be deemed to be occupation of such land.]

*[(2) Notwithstanding anything contained in sub-section (1), it shall not be lawful for any person to erect or cause to erect any wall, fence or building or put up or cause to put up any overhanging structure or projection (whether on a temporary or permanent basis) on or over any land referred to in sub-section (1) except under and in accordance with the terms and conditions of a licence issued by the Government or such officer of the Government as may be empowered by them in this behalf.*

*(3) Any person desirous of obtaining a licence referred to in sub-section (2) may apply to the Government or to such officer of the Government as may be empowered by them in this behalf for an appropriate licence.*



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*(4) An application under sub-section (3) shall be in such form and shall contain such particulars and shall be accompanied by such fee, as may be prescribed by rules made under this Act.] “*

*(underline supplied)*

Though Section 5(1) of the Act 1957 mandates that it is not lawful for any person to occupy a land which is the property of the Government, the provision permits such occupation with the permission of the Government. The provision further provides that any person desirous of erecting a wall, fence or building could do so in accordance with the terms and conditions of a licence issued by the Government, for which the applicant should apply as per Section 5(3).

5. Rules 32 to 37 of the Kerala Land Conservancy Rules, 1958 (for short, 'Rules, 1958), which is relevant for the consideration of the present case, read as follows:-

*“[32. Application for permission to erect or cause to erect any wall, fence or building or to put up or cause to put up any overhanging structure or projection whether on a temporary or permanent basis on or over any land which is the property of Government, whether a Poramboke or not, shall be made in Form 'G' appended to these Rules, to the Tahsildar of the Taluk in which the land is situated, with plan (in triplicate).*

*33. The Tahsildar shall, on receipt of the application, inspect the land and satisfy himself in consultation with the Public*



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*Works Department that the application can be granted without prejudice to the interests of the Government.*

**34.** *If the Tahsildar finds that application can be granted, he shall issue a permit to the applicant in Form 'H' appended to these rules on receipt of the prescribed fee and on such conditions as he may deem fit to impose.*

**35.** *A permit issued under these rules shall be valid only for three months from the date of issue, provided however that the Tahsildar shall have powers to renew the permit on the application of the permit holder for a further period of three months if sufficient grounds exist. If the permit holder fails to carry out the work within the prescribed period, the permit shall stand cancelled. It shall be competent for the Tahsildar during the currency of the permit, to cancel the permit in case the holder of the permit violates any of the conditions specified therein or provisions of the Act or these rules.*

**36.** *All sums found due from the permit holder under these rules shall be recovered from him in the same manner as if they are arrears of public revenue due on lands under the Kerala Revenue Recovery Act for the time being in force.*

**37.** *A register of applications for the issue of permits under these rules shall be maintained in all Taluk Offices in Form I appended to these rules.]”*

6. In the light of the above statutory provisions, I am of the opinion that the stand taken by the Tahsildar (LR) in Ext.P6 that there is no provision in the Kerala Land Conservancy Act and Rules to permit the erection of a gate in a puramboke land cannot be accepted. The 2<sup>nd</sup> respondent, Tahsildar, is competent to grant such permissions following the procedures and the conditions enumerated



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in Section 5 of the Act, 1957, and Rules 32 to 37 of the Rules 1958.

In light of the above, Ext.P6 is liable to be interfered with.

Accordingly, the above writ petition is disposed of as follows:

1. Ext P6 order is set aside.
2. The petitioners may make a necessary application invoking Section 5 of the Act, 1957 and Rules 32 to 37 of the Rules, 1958 within a period of one month from the date of receipt of a copy of the judgment. If such an application is filed, the 2<sup>nd</sup> respondent shall take an appropriate decision on the same, in accordance with law, after affording an opportunity of being heard to the petitioners within a further period of three months thereafter.

Sd/-  
**VIJU ABRAHAM**  
**JUDGE**

sbk/-



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APPENDIX OF WP(C) NO. 6036 OF 2021

**PETITIONER EXHIBITS**

- EXHIBIT P1** TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICE, MAZHUVANNOOR DATED 1.12.2020.
- EXHIBIT P2** TRUE COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE MAZHUVANNOOR GRAMA PANCHAYAT DATED 2.2.2021.
- EXHIBIT P3** TRUE COPY OF THE LICENCE ISSUED BY THE MAZHUVANNOOR GRAMA PANCHAYAT DATED 1.4.2020 IN FAVOUR OF 2ND PETITIONER.
- EXHIBIT P4** TRUE COPY OF SKETCH SHOWING THE PROPERTY OF THE PETITIONERS INCLUDING BIT OF LAND.
- EXHIBIT P5** TRUE COPY OF THE APPLICATION SUBMITTED TO THE 2ND RESPONDENT DATED 22.12.2018.
- EXHIBIT P6** TRUE COPY OF THE REPLY DATED 21.3.2019.
- EXHIBIT P7** TRUE COPY OF THE PERMIT NO.C3-3785(38)/2020 DATED 8.2.2021 ISSUED BY MAZHUVANNOOR GRAMA PANCHAYAT.