

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WA.No. 533 of 2009 () IN WP(C).28546/2008

**AGAINST THE ORDER/JUDGMENT IN WP(C) 28546/2008 of HIGH COURT OF KERALA
DATED 25-09-2008**

APPELLANT/PETITIONER:

**P.C. ABDUL SALAM, S/O. MOIDEENKUTTY HAJI
POTTANCHALIL, THURAKKAL, MANJERI
MALAPPURAM.**

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENT(S)/RESPONDENTS:

**1. MANJERI MUNICIPALITY,
REP. BY ITS SECRETARY, MANJERI MUNICIPALITY,
MANJERI,
MALAPPURAM DIST.**

**2. STATE OF KERALA, REP. BY SECRETARY,
LOCAL SELF GOVERNMENT, SECRETARIAT
THIRUVANANTHAPURAM.**

R1 BY ADV. SRI.M.P.ASHOK KUMAR

R2 BY SR GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 11-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WA NO.533/09

APPENDIX

APPELLANT'S EXHIBITS

ANNEXURE A: TRUE COPY OF THE JUDGMENT IN WPC
32610/2007 DATED 11.12.2007.

ANNEXURE A1: TRUE COPY OF THE JUDGMENT IN WPC
26121/2007 DATED 13.8.2008.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No. 533 of 2009
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Dated this the 11th day of February, 2015

J U D G M E N T

Antony Dominic, J.

The appeal is filed against the judgment of the learned single dismissing WP(C) No.28546/2008 filed by the appellant. In the writ petition, the appellant challenged Ext.P1 order passed by the respondent Municipality rejecting his application for a building permit on the ground that as per the DTP Scheme, the land in question is set apart for bus stand for the Municipality. However, the case of the appellant is that no land acquisition proceedings had been initiated to acquire the required extent of land. Therefore, the contention raised by the appellant is that the scheme could not have stood in the way of the Municipality in considering the application made. In support of this contention, learned counsel placed reliance on the judgments of this Court in WP(C) Nos.32610/2007 and 26121/2007.

2. Having heard the learned counsel for the appellant and the learned counsel for the respondents, we feel that, if even as on today, the Municipality has not even got a 4(1) notification issued

under the Land Acquisition Act, there is no reason for it to have declined to consider on merits the application made by the appellant for the building permit.

We therefore dispose of this appeal setting aside the judgment of the learned single Judge and directing that, if as on today, no 4(1) notification for acquisition of land for the implementation of the Scheme or atleast for the bus stand is not issued, the Municipality will reconsider the application made by the appellant for a building permit and pass orders thereon, on merits. This, the Municipality shall do, at any rate, within two months of receipt of a copy of this judgment.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge