

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

RP.No. 608 of 2015 (T) IN WP(C).4759/2015

AGAINST THE JUDGMENT IN WP(C) 4759/2015 of HIGH COURT OF KERALA
DATED 24.03.2015

REVIEW PETITIONERS/RESPONDENTS 1 TO 3:

1. THE SECRETARY, DEPARTMENT OF URBAN AFFAIRS,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. CHIEF TOWN PLANNER,
OFFICE OF THE CHIEF TOWN PLANNER, 2ND FLOOR,
SWARAJ BHAVAN, THIRUVANANTHAPURAM - 695 003.
3. THE DISTRICT TOWN PLANNER,
OFFICE OF THE DISTRICT TOWN PLANNER
MINI CIVIL STATION, ALAPPUZHA - 688 001.

BY ADV. GOVERNMENT PLEADER

RESPONDENTS/PETITIONER AND RESPONDENTS 4 AND 5:

1. DILEEP V. IDATHALA, AGED 40 YEARS,
S/O. VARGHESE, IDATHALA HOUSE, KUTTAMPUZHA P.O.
THIRUVALLA, PATHANAMTHITTA.
2. THE SECRETARY,
ALAPPUZHA MUNICIPALITY, ALAPPUZHA - 688 001.
3. THE CHIEF AREA MANAGER,
INDANE, INDIAN OIL CORPORATION LIMITED
PANAMPILLY AVENUE, PANAMPILLY NAGAR, KOCHI - 682 036.

R1 BY ADV. SRI.R.T.PRADEEP
R BY SRI.R.AZAD BABU
R BY SRI.M.GOPIKRISHNAN NAMBIAR

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
18-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

RP.No. 608 of 2015 (T)

: 2 :

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A : TRUE COPY OF THE GAZETTE NOTIFICATION
NO.ADA/785/D2/96 DATED 04.03.1998.

RESPONDENTS' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE.

rv

DAMA SESHADRI NAIDU, J.

R.P. No. 608 of 2015

in

W.P. (C) No. 4759 of 2015

Dated this the 18th day of August, 2015.

ORDER

Heard the learned counsel for the review petitioners, the learned counsel for the first respondent and the learned Standing Counsel for the 3rd respondent.

2. The facts in brief are that the first respondent, desirous of constructing a go-down, submitted an application for building permit to the second respondent, who, in turn, rejected it through Ext.P8 on two counts: the construction of a commercial building in the leasehold property violates zoning regulations; the consent of persons residing in the neighbourhood has not been obtained. Aggrieved, the first respondent filed W.P.(C) No. 4759 of 2015.

3. This Court through its judgment dated 24.03.2015 disposed of the writ petition with the following directions:

"In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel, as well as the learned Government Pleader for the respondents, this Court

hereby sets aside Exhibit P8 with a consequential direction to the second respondent to re-consider the proposal forwarded by the fourth respondent in the light of the fact that there is no notified Town Planning Scheme and further process the petitioner's application, keeping in view Exhibit P6 consent deed and also Exhibit P9 judgment and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment."

4. In the course of time, the first respondent filed Contempt of Court Case No. 815 of 2015 complaining of non-compliance with the judgment under reference. On the other hand, respondents 1 to 3 in the writ petition filed the present Review Petition.

5. The chief contention in the review petition is that there is an existing 'published master plan' for Alappuzha Municipality. As per Section 113 of the Ordinance, any master plan published or sanctioned under the repealed acts prior to the commencement of the Ordinance shall be deemed to have been sanctioned or published under the Ordinance.

6. To a specific query from this Court, the learned Government Pleader has, however, submitted that it is only a draft master plan, but saved by section 113 of the Ordinance, 2014.

7. This Court through its judgment dated 03.08.2015 in W.P.

(C) No. 33852 of 2014 has elaborately dealt with the same issue and rejected the contention of the Government.

Accordingly, as the issue has squarely been covered by an earlier judgment, I do not see any merit in the review petition, which is accordingly dismissed.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

