

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WA.No. 2026 of 2012 IN WP(C).1704/2012

AGAINST THE JUDGMENT IN WP(C) 1704/2012 DATED 20-07-2012

.....

APPELLANT/PETITIONER :

MOYINKUTTY
S/O.MOHAMMED K.P., KULATHIL PAYYANAPOTTA HOUSE
ANIZHAM P.O., FAROOK COLLEGE VIA.
MALAPPURAM-676 505.

BY ADVS.SRI.K.RAMACHANDRAN
SRI.NIRMAL. S

RESPONDENTS/REPOENDENTS :

1. THE SECRETARY,
VAZHAYOOR GRAMA PANCHAYATH, MALAPPURAM-676 505.
2. THE DISTRICT COLLECTOR
MALAPPURAM-676 505.

R1 BY ADV. SRI.V.RAJENDRAN
R2 BY SR.GOVERNMENT PLEADER, SMT. GIRIJA GOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ASHOK BHUSHAN, CJ
&
A.M.SHAFFIQUE, J**

W.A.No. 2026 of 2012

Dated this the 16th June, 2015

JUDGMENT

Shaffique, J.

This appeal is filed against the judgment dated 20.7.2012 in W.P(C).No.1704 of 2012. The Writ Petition was filed by the appellant herein challenging Exhibits P3 and P4 orders. Exhibit P3 is an order issued by the Panchayat on 11.11.2011 rejecting the application submitted by the appellant for construction of an LPG storage godown in a property having an extent of 10.5 Ares coming within the Vazhoor Village, on the ground that as per the Village records, the property is shown as 'Nilam' (paddy field). The appellant preferred an appeal before the Tribunal for Local Self Government Institutions as Appeal No.832/2011. After considering the entire matter on merits, the Tribunal concurred the view

expressed by the Panchayat by its order dated 2.1.2012, which is Exhibit P4.

2. The learned Single Judge, after having considered the entire matter elaborately, dismissed the Writ Petition. It was found that none of the documents produced in support of the petition would show that the site was converted prior to the implementation of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (Act 28 of 2008). It is impugning the aforesaid judgment that this Writ appeal has been filed.

3. It is now brought to the notice of this Court that the very purpose of the appellant to construct the LPG godown was on the basis of a letter of intent issued by the Indian Oil Corporation on 20.09.2011. It is submitted that the letter of intent has subsequently been cancelled on expiry of time and therefore, there is no necessity for the appellant to proceed with the construction of LPG godown.

4. Having regarding to the aforesaid factual situation, we do not think that there is any necessity to consider the

matter on merits. The very purpose of constructing the LPG godown has become infructuous. However, we make it clear that it shall always be open for the appellant to submit necessary application before the competent authority for any other construction, provided the appellant obtains appropriate orders in accordance with law.

The Writ Petition is dismissed.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs16/6/15