

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WA.No. 1567 of 2011 IN WP(C).32326/2010

AGAINST THE JUDGMENT IN WP(C) 32326/2010 of HIGH COURT OF
KERALA DATED 02-12-2010

APPELLANT(S):

G. AJITH KUMAR, AGED 44,
S/O. GANGADHARAN NAIR, T.C. NO. 30/217,
K.G. BHAVAN, ANYARA P.O.
THIRUVANAHTAPURAM - 695 029

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SMT.PREETHY KARUNAKARAN
SRI.K.RAVI (PARIYARATH)

RESPONDENT(S):

1. THE STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, LOCAL SELF GOVERNMENT
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001
2. THE SECRETARY,
CORPORATION OF THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY - 695 001
3. THE REGIONAL TOWL PLANNER,
THIRUVANANTHAPURAM - 695 001

R2 BY ADV. SRI.N.NANDAKUMARA MENON (SR.) &
BY ADV. SRI.P.K.MANOJKUMAR
BY GOVERNMENT PLEADER SRI. P.I. DAVIS FOR R1

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

.....
W.A. NO. 1567 OF 2011
.....

Dated this the 14th day of January, 2015.

JUDGMENT

Shaffique, J.

Petitioner in the Writ Petition is the appellant. He challenges the judgment dated 2-12-2010 in W.P.(C) No. 32326 of 2010. The brief facts involved in the Writ Petition would disclose that the petitioner being the owner in possession of an extent of 14 cents of land in Sy. No. 3275/1 of Vattiyurkavu Village applied for building permit for construction of an area of 1434.93 Sq. meters. Permission was not granted by the Tahsildar on the ground that the site is included in green strip area as per the master plan. The matter was taken up before the

Tribunal who by Ext.P7 judgment rejected the claim of the petitioner. The matter was again taken up before this Court by filing the Writ Petition. The learned Single Judge having taken note of the judgments on the point especially Secretary to Government v. Nazar - 2010 (1) KLT 289 observed that there was no reason to interfere with Ext.P7 judgment of the Tribunal. However, liberty was granted to the petitioner to file a fresh application for building permit before the 2nd respondent.

2. Learned counsel for the appellant contends that the entire area in the locality is a developed area and the petitioner's property cannot be characterised as green strip areas and, therefore, he is entitled to similar treatment as that of others and permission ought to have been granted for constructing 1434.92 Sq. metres of building area.

3. It is further contended that the learned Single Judge

ought to have permitted the petitioner to take all the contentions with reference to the green strip area as well which was not granted by the impugned judgment.

4. The learned Sr. Counsel appearing on behalf of the Corporation Sri.Nandakumara Menon submits that the petitioner had applied for exemption from applying the master plan which was rejected as per Ext. P3 dated 23-08-2006. It is submitted that only an area of 300 Sq. metres can be constructed in the said area and that too for single family residence.

5. Having regard to the aforesaid submissions and on account of the fact that the property has been treated as green strip area in the master plan, we do not think that a direction as prayed for by the appellant can be granted in this case. The learned single Judge had after reference to Ext. P7 order confirmed the same based on a Division Bench Judgment of this

Court. In such circumstances, in the absence of any other material to indicate that the judgment is perverse in any manner, we cannot interfere with the judgment of the learned Single Judge. However, we make it clear that while submitting application by the petitioner it shall always be open for the petitioner to raise all his contentions available under law before the local authority.

With the above observation, this Writ Appeal is dismissed.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/- A.M.SHAFFIQUE,
JUDGE

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P.S.tojudge