

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 504 of 2008 (I)

PETITIONER(S):

1. JAI MATHEW, S/O.MATHAI, AGED 38 YEARS,
KIZHAKKEVILA PUTHAN VEEDU, KARIPPURAM,
MUKKODU, MULAVANA, KOLLAM.
2. JOHN CHACKO, S/O.MATHAI, AGED 42 YEARS,
KIZHAKKEVILA PUTHAN VEEDU, KARIPPURAM, MUKKODU,
MULAVANA, KOLLAM. REPRESENTED BY HIS
POWER OF ATTORNEY HOLDER JACOB MATHEW,
S/O.MATHAI, OF -DO- DO-

**BY ADVS.SRI.K.S.MANU (PUNUKKONNOOR)
SRI.P.SREEKUMAR**

RESPONDENT(S):

**THE ELAMPALLOOR GRAMA PANCHAYAT,
ELAMPALLOOR, KUNDARA, KOLLAM
REPRESENTED BY THE SECRETARY.**

***ADDL.R2 IMPEADED**

***ADDL.R2: THE VILLAGE OFFICER, ELAMPALLOOR,
KUNDARA, KOLLAM.**

***ADDL.R2 IS IMPEADED AS PER ORDER DATED 3/3/2008 IN IA.NO.2917/2008**

R1 BY ADV. SRI.B.MOHANLAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).NO.504/2008

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE TAX RECEIPT ISSUED FROM THE VILLAGE OFFICE.**
- P2 COPY OF THE BUILDING PERMIT ISSUED TO THE PETITIONER'S BY THE RESPONDENT.**
- P3 COPY OF THE BUILDING PLAN.**
- P4 COPY OF THE NOTICE OF THE RESPONDENT DATED 30/11/07**
- P5 COPY OF THE POSSESSION CERTIFICATE AND LOCATION SKETCH ISSUED FROM THE VILLAGE OFFICE.**
- P6 COPY OF THE RECTIFIED LOCATION SKETCH ISSUED FROM THE VILLAGE OFFICE.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.V.RAMAKRISHNA PILLAI, J

WPC No.504 of 2008

Dated this the 28th day of May, 2015

JUDGMENT

Aggrieved by the non-numbering of the petitioner's building by the respondent Panchayat, the petitioners have approached this Court.

2. The petitioners are in possession and enjoyment of 1.25 cents of property each (50 sq.metres each) comprised in Sy.Nos.2/26/3, 22/3, 2/26/4, 22/4 of Elampalloor Village. The petitioners applied for building permit for constructing commercial buildings and the same was granted by the respondent on 6.8.2003. The petitioners allege that they constructed the building as per Exts.P2 and P3 approved plans.

3. The grievance of the petitioners is that the respondent panchayat is not numbering the buildings even after repeated requests of the petitioners. The petitioners pointed out that the respondent issued a letter to them stating that they have constructed the building

not as per the location sketch. It is with this background, the petitioners have come up before this Court.

4. In the counter affidavit filed by the respondent Panchayat, it is averred that since there is the District road in front of the petitioners' building, Section 220(b) of the Kerala Panchayat Raj Act mandates the keeping of 3 metres distance between the boundary of the land and the road. It is pointed out that the building is facing towards east and the petitioners have left only 2 metres distance in the plan and on the rear side, the petitioners have kept only 1 metre distance. The respondents maintained the stand that if the petitioners are ready to rectify the mistake, numbering can be given to the buildings.

5. This Court by interim order dated 18.3.2008 directed the first respondent to provisionally number the building subject to the final outcome of the writ petition.

6. I have heard the learned counsel for the petitioners and the learned standing counsel for the Panchayat. It appears from the counter that the building

was numbered on account of Section 220(b) of the Kerala Panchayat Raj Act which provides for keeping of 3 metres distance from the boundary of the land and road.

7. The learned counsel for the petitioners inviting my attention to Rule 64 of the Kerala Panchayat Building Rules, 2011 would submit that the said provisions should apply to commercial buildings or a combination of both in plots not exceeding 1.25 ares or 125 sq. metres. Therefore, according to the learned counsel for the petitioners, the petitioners' plots are small plots and therefore, they are liable to leave a distance of 2 metres only between the district road and the boundary of the petitioner's property. As the same distance has been maintained by the petitioners, this Court is of the view that the petitioner is entitled to succeed.

Therefore, the interim order passed by this Court on 18.3.2008 is made absolute. The writ petition is disposed of as above.

sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

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true copy

P.S.TO JUDGE