

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WA.No. 1489 of 2015 () IN WP(C).11546/2015

AGAINST THE ORDER/JUDGMENT IN WP(C) 11546/2015 of HIGH COURT OF
KERALA

APPELLANT(S) :

1. VALLACHIRA GRAMA PANCHAYATH
PO VALLACHIRA, THRISSUR-680 562
REPRESENTED BY ITS SECRETARY

2. THE SECRETARY,
BVALLACHIR GRAMA PANCHAYATH, PO. VALLAVCHIRA
THRISSUR-680562

BY ADV. SRI.NAVEEN.T

RESPONDENT(S) :

P.D.BABU
S/O DEVASSYKUTTY, PARAKKAL HOUSE, VALLACHIRA PO
VALLACHIR VILLAGE, THRISSUR 680 562

BY SRI.M.ANIL KUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A.No. 1489 of 2015

Dated this the 13th July, 2015

JUDGMENT

Shaffique, J.

This Writ Appeal is filed by the respondents challenging the judgment dated 10.6.2015 in W.P(C). No.11546 of 2015 by which a direction has been issued by the learned Single Judge to the appellant Panchayat to consider the application of the writ petitioner for building permit as the Panchayat has not raised any objection while the petitioner has constructed the ground floor of the existing building.

2. The Writ Petition was filed by the respondent herein seeking for a direction to the Panchayat authorities to issue a building permit to the petitioner. It is stated in the Writ Petition that the petitioner is already having a single storied commercial building in the property situated

in 17.5 cents of land in Re.Sy.No.244/5 of Vallachira Village, Thrissur Taluk. The petitioner submitted an application dated 25.6.2014 seeking building permit to construct another floor in the existing permanent building. The application was rejected on 25.7.2014 stating that the petitioner has not incorporated the fact that the building was situated close to the road. He was directed to resubmit the application after including the total area. The petitioner resubmitted the plan on 10.9.2014 and the same was rejected per Exhibit P3 dated 21.11.2014. The petitioner was asked to make some corrections in the matter. In the meantime, on account of the fact that there is a deemed licence, the petitioner proceeded with the construction. Thereafter Exhibit P4 dated 10.3.2015 was issued by which the petitioner was asked to cure the defect noted in the notice dated 21.11.2014 (Exhibit P3). It is in the said circumstances that this Writ Petition has been filed.

3. No counter affidavit was filed by the Panchayat and the Writ Petition was disposed of in their absence.

4. In the appeal it is inter alia contended that by virtue of the observation made by the learned Single Judge that the Panchayat having not raised any objection regarding the construction of the ground floor of the building, there is no reason why the petitioner's application for building permit is not being considered, the right of the Panchayat to consider the application in accordance with the Building Rules is restricted. Learned counsel for the appellant submits that this observation may create some problem for the Panchayat in so far as the Panchayat can grant building permit only in accordance with the Kerala Panchayat Raj Building Rules, 2011.

5. Heard learned counsel for the Panchayat as well as learned counsel for the writ petitioner.

6. We do not think that the apprehension expressed by the appellant is justified. Even though the petitioner

has already constructed a building in the ground floor, if an additional floor is required, necessarily the petitioner will have to comply with the Building Rules, which is applicable and it is for the Panchayat to take appropriate decision in the matter. If the Panchayat requires appropriate plan for the entire structure, it is for the petitioner to comply with the same in accordance with the Building Rules.

In the result, the Writ Appeal is disposed of permitting the appellant Panchayat to consider the application of the petitioner in accordance with the Kerala Panchayat Raj Building Rules, 2011.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFIQUE
JUDGE**

vgs13/7/15