

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 2282 of 2015 (I)

PETITIONER:

**BENNY ALAPPAT, S/O ANTONY,
ALAPPAT CHEMUNDA HOUSE,
VELIYANUR, THRISSUR.**

**BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA
SRI.K.D.SREEVISAKH**

RESPONDENT(S):

- 1. THRISSUR CORPORATION,
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE, THRISSUR-680001.**
- 2. THE SECRETARY,
THRISSUR CORPORATION, THRISSUR-680001.**
- 3. THE EXECUTIVE ENGINEER,
LOCAL SELF GOVERNMENT DEPARTMENT
THRISSUR CORPORATION OFFICE, THRISSUR-680001.**

**BY ADVS. SRI.K.P.VIJAYAN
SRI.V.N.HARIDAS**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 2282 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1 : TRUE COPY OF THE BUILDING PERMIT NO.KKY/BA-64/2011-12
(REVISED)ISSUED BY 1ST RESPONDENT CORPORATION
DATED 03/9/2012.

EXT.P1(A) : TRUE COPY OF THE TRANSLATION OF EXT.P1.

EXT.P2 : TRUE COPY OF THE NOTICE DATED 08/01/2015 ISSUED BY THE
3RD RESPONDENT.

EXT.P2(A) : TRUE COPY OF THE TRANSLATION OF EXT.P2

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 2282 of 2015

Dated this the 29th day of January, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, being the owner and possessor of certain property in Thrissur Village, obtained Exhibit P1 building permit on 03.09.2012. Later, when the petitioner applied for renewal of Exhibit P1 building permit on 11.11.2014, the respondent Corporation rejected it through Exhibit P2 on the ground that the petitioner's property falls within the Residential Zone of DTP for Kannamkulangara South West Extension. Aggrieved thereby, he has filed the present writ petition.

3. At the outset it is to be observed that the petitioner

was granted Exhibit P1 permit way back in 2012 when the respondent Corporation did not raise any objection on the issue of the property having been situated in a Residential Zone. At any rate, this Court through a catena of judgments has held that unless the scheme has been sanctioned and implemented, no owner of the property shall be deprived of the right to enjoy the property as he or she deems fit. Illustratively it can be stated that in **Nazar v. Malappuram Municipality** [2009 (3) KLT 92] and **Secretary to Government v. Nazar** [2010 (1) KLT 286] this Court has reiterated the said principle based on the dictum laid down by the Apex Court in **Raju S. Jathmalini & Others v. State of Maharashtra** [2005 (11) SCC 222].

4. In the facts and circumstances, Exhibit P2 is set aside. Consequently, the respondent Corporation is further directed to consider the petitioner's application dated 11.11.2014 afresh.

With the above observation, this writ petition is disposed of.

DAMA SESHADRI NAIDU
JUDGE

DMR/-