

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 2993 of 2015 (Y)

PETITIONERS:

1. HUSSAIN, AGED 45 YEARS,
S/O.MOIDEEN ABDUL KHADER.
2. JASEENA HUSSAIN, AGED 33 YEARS,
W/O. HUSSAIN
PETITIONERS ARE RESIDING AT VALIPARAMPU
KODUVAYUR ROAD, KUZHALMANNAM P.O, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

1. KUZHALMANNAM GRAMAPANCHAYAT,
REPRESENTED BY ITS SECRETARY, KUZHALMANNAM P.O
PALAKKAD DISTRICT PIN 678 702
2. THE SECRETARY,
KUZHALMANNAM GRAMA PANCHAYAT, KUZHALMANNAM P.O
PALAKKAD DISTRICT PIN 678 702

R BY SRI.P.R.VENKETESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :-

EXHIBIT P1 A TRUE COPY OF THE CERTIFICATE DATED JANUARY 9,2015 ISSUED BY THE SECOND RESPONDENT.

EXHIBIT P2 A TRUE COPY OF THE ORDER DATED SEPTEMBER 4,2013 OF THE FIRST RESPONDENT.

EXHIBIT P3 A TRUE COPY OF THE JUDGMENT DATED JUNE 4,2014 IN W.P.(C) NO. 13479 OF 2014 OF THIS HONOURBLE COURT.

EXHIBIT P4 A TRUE COPY OF THE ORDER DATED NOVEMBER 27,2014 OF THE FIRST RESPONDENT.

EXHIBIT P5 A TRUE COPY OF THE GOVERNMENT CIRCULAR DATED JULY 31,2008.

RESPONDENT(S)' EXHIBITS:

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 2993 of 2015 (Y)

Dated this the 5th day of March, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Grama Panchayath, 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. Based on the building permit granted in 2011, the petitioners constructed a commercial building on the plot owned by them. Since they constructed the building in violation of the sanctioned plan, they submitted an application for regularisation of the unauthorised structures. The respondent Grama Panchayath has, however, rejected the said application through Ext.P4 order holding that the land is reflected in the revenue records as 'nilam'. Assailing Ext.P4, the petitioners have filed the present writ petition.

3. The learned counsel for the petitioners has contended

that initially, in 2011, the respondent Grama Panchayath issued a building permit based on Ext.P1 certificate after verifying that the petitioners' property was not included in the data bank. In the light of the judgment dated 19.11.2014 rendered by this Court in W.P.(C) No. 26027 of 2014, the respondent Grama Panchayath, according to the learned counsel, cannot have any objection to consider the petitioners' application for regularisation. The learned counsel has also brought to my notice Ext.P1 certificate issued by the respondent Grama Panchayath showing that the petitioners' property has not been included in the data bank.

4. The learned counsel for the respondent Grama Panchayath has submitted that the respondent Grama Panchayath is willing to consider the petitioners' application, if it is submitted afresh. She has also submitted that while considering the petitioners' application for regularisation, it will take into account the ratio laid down in the judgment dated 19.11.2014 rendered by this Court in W.P. (C) No. 26027 of

2014.

5. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioners and the learned counsel for the respondent Grama Panchayath, this Court disposes of the writ petition, leaving it open for the petitioners to submit a fresh application for regularisation.

Consequently, Ext.P4 is set aside and the petitioners are given liberty to file an application expeditiously. The respondent Grama Panchayath is further directed to consider the petitioners' application on its submission in accordance with law, duly taking into account the judgment referred to above.

sd/- DAMA SESHADRI NAIDU, JUDGE.

