

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 3230 of 2015 (C)

PETITIONER :

**DEEPA SURENDRAN, AGED 42 YEARS,
KALAPPURAKKAL HOUSE, VENKIDANGU, THRISSUR.**

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

RESPONDENTS :

**1. THRISSUR CORPORATION
REPRESENTED BY ITS SECRETARY
CORPORATION OFFICE THRISSUR-680 001**

**2. THE EXECUTIVE ENGINEER,
LOCAL SELF GOVERNMENT DEPARTMENT,
THRISSUR CORPORATION, THRISSUR - 680 001**

**R1 & R2 BY ADVS. SRI.K.P.VIJAYAN, SC,
SRI.V.N.HARIDAS**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE APPLICATION DATED 25-12-14 FOR BUILDING
PERMIT BEFORE THE 1ST RESPONDENT CORPORATION.

EXT.P2: TRUE COPY OF THE ORDER NO.DW5/BA/375/14-15 DATED 13-1-15
ISSUED BY THE 2ND RESPONDENT.

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

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 3230 of 2015

Dated this the 13th day of February, 2015

J U D G M E N T

Ext.P2, by which the petitioner's application for building permit was rejected, is under challenge in this writ petition.

2. The petitioner submitted Ext.P1 application for building permit to construct a residential building having a plinth area of 336.36 square metre in the property owned and possessed by her in Sy.No.799/9, 800/2 and 801/7 of Ayyanthole Village within the limits of the respondent corporation, which was rejected by the 2nd respondent as per Ext.P2 holding that as per the possession certificate, the property is shown as 'nilam' (paddy field) and that as per the master plan, the said property falls in the 'outside paddy zone'. According to the petitioner, though the land is described as 'nilam' in the revenue records, the property of the petitioner is lying as a 'paramba' for the last several years. She further points out that there are several houses

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in the locality and the said area is a thickly populated residential zone. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. The decision of this Court in **Mohammed Abdul Basheer C.P. V State of Kerala and another** (2012 (3) KLT 86) lays down the principle that the present position of the land has to be taken into consideration and on ascertaining these facts, permission can be granted for construction.

5. It is settled position that the applicant can choose the best land suited for construction of his house (**Sunil v Killimangalam-Panjai 5th Ward Nellulpadaka Samootham** [2012 (4) KLT 511]). Only if there is cultivation presently, then it will be considered as cultivating paddy land so as to attract the provisions of the Kerala Conservation of Paddy Land and Wetland Act and Rules.

6. In **Jalaja Dileep v Revenue Divisional Officer** (2012(3) KLT 333), this Court observed that the

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description in the title deed or in revenue records will not be crucial if the property is reclaimed already. The aforesaid legal positions settled by this Court escaped the attention of the authorities while rejecting the petitioner's application.

Therefore, this writ petition is allowed. Ext.P2 is quashed.

The respondent corporation is directed to conduct a local inspection of the property regarding the present lie as well as the condition of the property of the petitioner and surrounding properties. The respondents are also directed to consider the application and pass appropriate orders, after affording the petitioner an opportunity of being heard. This shall be done within a period of two months from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-