

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 3361 of 2015 (U)

PETITIONER :

**PRIYA MENON, AGED 43 YEARS,
W/O.JYOTHISH KUMAR, SREENILAYAM HOUSE, VELLAYAMBALAM,
SASTHAMANGALAM P.O., TRIVANDRUM-695 010.**

**BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.K.S.PAILY
SRI.THOMAS P.KURUVILLA**

RESPONDENTS :

- 1. NEDUMANGAD MUNICIPALITY
NEDUMANGAD P.O., PINI-695 541
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY
NEDUMANGAD MUNICIPALITY,
NEDUMANGAD P.O., PINI-695 541**
- 3. THE CHIEF TOWN PLANNER,
OFFICE OF THE CHIEF TOWN PLANNER, 2ND FLOOR,
SWARAJ BHAVAN, THIRUVANANTHAPURAM.**

**R2 BY ADV. SRI.P.RAMAKRISHNAN
R3 BY GOVERNMENT PLEADER SRI.K.A. SANJEETHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE LETTER OF INTENT DATED 25/9/2013.
- EXT.P2: TRUE COPY OF THE PROCEEDINGS DATED 27/1/2014 ISSUED BY THE CONTROLLER OF EXPLOSIVES.
- EXT.P3: TRUE COPY OF THE CONSENT DATED 5/2/2014 ISSUED BY THE FIRE AND RESCUE SERVICES, TRIVANDRUM.
- EXT.P4: TRUE COPY OF THE NOTICE DATED 7/5/2014 ISSUED BY THE CHAIRMAN, KERALA STATE POLLUTION CONTROL BOARD, TO THE PETITIONER AND OTHERS.
- EXT.P5: TRUE COPY OF THE INTEGRATED CONSENT TO ESTABLISH ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD
- EXT.P6: TRUE COPY OF THE LETTER DATED 31/10/2014 ISSUED BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT.
- EXT.P6(A). TRUE COPY OF THE ENGLISH TRANSLATION OF EXTP.6
- EXT.P7: TRUE COPY OF THE REPORT APPENDED ALONG WITH EXHIBIT.
- EXT.P7(A): TRUE COPY OF THE ENGLISH TRANSLATION OF EXTP.7.
- EXT.P8: TRUE COPY OF THE LETTER DATED 18/12/2014 ISSUED BY THE 3RD RESPONDENT.
- EXT.P8(A): TRUE COPY OF THE ENGLISH TRANSLATION OF EXTP.8

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

pPA. TO JUDGE

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 3361 of 2015

Dated this the 10th day of March, 2015

J U D G M E N T

Aggrieved by Ext.P8, by which the 3rd respondent directed the 2nd respondent to redress the complaints and submit recommendation afresh, which, according to the petitioner, is illegal, without authority and against the Kerala Municipality Building Rules, the petitioner has come up before this Court.

2. The petitioner alleges that he was issued with LPG Distributorship, which required a godown for the storage of 8000 kg of filled LPG cylinders. According to the petitioner, she took a land measuring about 101 cents on lease for a period of 15 years and submitted application for construction of godown. She alleges that she obtained the necessary consents and permissions from various authorities concerned. The 2nd respondent forwarded the application for building permit to the 3rd respondent for approval of layout and convened a public meeting of the people of the locality to consider complaints against the

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establishment of godown. Accordingly, Ext.P7 report was prepared and sent to 3rd respondent for further action. The 3rd respondent, vide Ext.P8, directed the 2nd respondent to redress the remaining complaints and submit recommendation afresh, which, according to the petitioner, is illegal.

3. I have heard the learned senior counsel for the petitioner, the learned counsel for respondent municipality and the learned Government Pleader.

4. It was submitted by the learned senior counsel for the petitioner that by virtue of Rule 59 of the Kerala Municipality Building Rules, approval of the District Town Planner shall be obtained for the usage of the plot up to 0.5 hect. area and layout of building up to 500 sq. metres and approval of Chief Town Planner in the case of usage of plot exceeding 0.5 hect. area and layout of buildings exceeding 500 sq. metres. According to the learned senior counsel, even though the layout of the building is 152.92 sq.metre, the usage of the plot exceeds 0.5 hect.; and hence, the approval of the 3rd respondent is required. It was further

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submitted that Rule 59 does not contemplate settlement of dispute with the objectors, if any, before the approval.

5. As rightly pointed out by the learned Government Pleader, the 3rd respondent is only concerned with the requirement of Rule 59 of the Kerala Municipality Building Rules for approval. Therefore, this Court is of the view that the writ petition can be disposed of directing the 3rd respondent to consider the application of the petitioner.

In the result, the writ petition is disposed of as follows;

a)Ext.P8 is quashed.

b)The 3rd respondent is directed to dispose of the application of the petitioner, submitted under Rule 59 of the Kerala Municipality Building Rules, without insisting for settlement of the dispute in establishing the godown by the petitioner, within a period of one month from the date of receipt of a copy of this judgment after affording the petitioner an opportunity of being heard.

Sd/-

A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-