

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 3528 of 2015 (M)

PETITIONER:

LIJO JOSEPH, S/O. JOSEPH, AGED 43 YEARS,
MANAGING DIRECTOR, ORMA MARBLES, PALAKKAD - 678 003

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS:

PALAKKAD MUNICIPALITY
REP.BY ITS SECRETARY, MUNICIPAL OFFICE,
PALAKKAD - 678001.

Addl.R2. THE DISTRICT COLLECTOR
PALAKKAD, OFFICE OF THE DISTRICT COLLECTOR,
CIVIL STATION, PALAKKAD - 678 001.

Addl.3. THE CHIEF TOWN PLANNER,
PALAKKAD, OFFICE OF THE CHIEF TOWN PLANNER,
PALAKKAD - 678 001.

(ADDL.R2 AND R3 ARE IMPEADED AS PER ORDER
DATED 12.02.2015 IN IA 2030/15).

R1 BY ADVS. SRI.T.C.SURESH MENON
SRI.P.S.APPU

R2 & R3 BY GOVERNMENT PLEADER SMT. LILLY LESLIE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 3528 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 - TRUE COPY OF THE ORDER PASSED BY THE RESPONDENT
DATED 31-12-2014 IN OFFICE REFERENCE NO.BA/680/14-15/PW5.

EXT.P1(a)- TRANSLATED COPY OF EXHIBIT P1.

RESPONDENTS' EXHIBITS: NIL.

// True Copy //

P.A to Judge.

smp

P.BHAVADASAN, J.

Writ Petition (Civil) No.3528 OF 2015

Dated this the 13th day of November, 2015.

J U D G M E N T

Under challenge is Ext.P1 order whereby the application filed by the petitioner for putting up a building was rejected by the local authority on the ground that it is included in a scheme of the local authority and the land can be used only for putting up commercial structures.

2. The petitioner who is the owner and in possession of 0.2833 hectars of land in survey Nos.1296, 1308, 1309 in Block 31, in Ward-II of Puthur Desom, in Palakkad Municipality had applied for putting up a structure in the property. The said application was considered by the local authority and rejected on the ground that the property comprised in the above survey numbers is included in a data bank and as per the DTP scheme the property can be used only for putting up commercial structures.

3. Learned Government Pleader appearing for the State pointed out that the property comprised in survey No.1296/8 is included in the data bank and if that be so, the petitioner has to approach the Local Level Monitoring Committee constituted under the Kerala Conservation of Paddy Land and Wet Land Act 2008 for redressal of his grievances and unless that committee passes orders in favour of the petitioner, his application cannot be considered.

4. After having heard the learned counsel for the petitioner, learned counsel appearing for the local authority and also the Government Pleader, it is felt that the reasons stated in the order that since the property is included in the DTP scheme, only commercial structures can be put up does not appear to be quite correct in the light of the fact that the petitioner has pointed out that in and around the property of the petitioner, several structures have come up.

5. As far as the contention based on the property in survey No.1296/8 which is included in the data bank is concerned, of course, the hands of the State and the local

authority are tied and the petitioner has to necessarily approach the authority constituted under Section 5 of Act 28 of 2008. The petitioner has therefore to approach the said committee and get necessary orders in his favour.

Reserving the right of the petitioner to approach the authority constituted under Section 5 of Act 28 of 2008, this writ petition is disposed of directing that if the petitioner gets an order in his favour, his application for permit for putting up structures shall be considered by the Municipality afresh within a period of 30 days of getting an order from the authority.

Sd/-

**P.BHAVADASAN
JUDGE**

smp

// True copy //

P.A to Judge.