

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 4473 of 2015 (H)

PETITIONER(S):

**FRANCIS, AGED 64 YEARS,
S/O.PALATHINGAL VAVU, P.O. KUTTANELLUR,
THRISSUR-680 014.**

BY ADV. SRI.G.SREEKUMAR (CHELUR).

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE THRISSUR MUNICIPAL CORPORATION,
REPRESENTED BY ITS SECRETARY, M.O. ROAD,
THRISSUR-680 001.**
- 3. THE EXECUTIVE ENGINEER,
LSGD, THRISSUR CORPORATION, THRISSUR-680 001.**

**R1 BY GOVERNMENT PLEADER SMT.K.A. SANJEETHA.
R2 & R3 BY ADVS. SRI.K.P.VIJAYAN, SC,
SRI.V.N.HARIDAS.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 4473 of 2015 (H)

APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1 COPY OF THE DECISION OF THE SECOND RESPONDENT
DATED 31/12/2014.**
- EXT.P2 COPY OF THE SKETCH PREPARED BY THE PETITIONER
DATED NIL.**
- EXT.P3 COPY OF THE JUDGMENT IN W.P.(C) NO.3165/2012
DATED 21/02/2012 OF THIS HON'BLE COURT.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 4473 of 2015

Dated this the 2nd day of June, 2015

J U D G M E N T

Ext.P1, by which the petitioner's application for building permit was rejected, is under challenge.

2. The petitioner is the owner in possession of an extent of 1.67 Ares of land comprised Sy. No.720/1 Chiyaram Village within the local limits of the respondent corporation. He submitted an application for the grant of building permit, which was rejected by the 2nd respondent as per Ext.P1, stating that the area in question is earmarked as an industrial zone in the development scheme. According to the petitioner, there is no such scheme in vogue and the area is completely covered by residential houses. It is with this background, the petitioner has approached this Court.

3. Arguments have been heard.

4. The learned counsel for the petitioner, inviting

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my attention to Ext.P2, would point out that almost all the buildings surrounding the property of the petitioner, where the proposed construction is being effected, are residential buildings, which are numbered by the respondent corporation without hesitation.

5. He further invited my attention to a Division Bench decision of this Court in **Padmini v. State of Kerala** [1999 (3) KLT 465], wherein it was held that no building permit can be refused to any person because there is a proposal to acquire the land in future. Reliance was also placed to the decision of the apex court in **Raju S. Jethmalani v. State of Maharashtra** [(2005) 11 SCC 222], wherein it was held that refusing to grant permits relying on obsolete DTP schemes is a clear violation of the provisions of the Constitution. Viewed in that profile, this Court is of the view that the petitioner is entitled to get the reliefs prayed for.

Therefore, the writ petition is allowed.

Ext.P1 is quashed and the respondent corporation is

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directed to reconsider petitioner's application for building permit within a period of one month from the date of receipt of a copy of this judgment and to grant permit in the light of what has been stated above, if the application is otherwise in order.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-