

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 5060 of 2015 (F)

PETITIONER:

MRS.THANKAMANI, AGED 55 YEARS,
W/O.VELAYUDHAN, KOZHIKODAN HOUSE,
NEDUMALA, PONJASSERRY P.O.,
ERNAKULAM DISTRICT.

BY ADV. SRI.SHIRAZ ABDULLA

RESPONDENTS:

1. THE SECRETARY, VENGOLA GRAMA PANCHAYATH,
VENGOLA, ERNAKULAM DISTRICT - 683 210.
2. THE VENGOLA GRAMA PANCHAYATH REP. BY THE
SECRETARY, VENGOLA, ERNAKULAM DISTRICT-683 210.
3. STATE OF KERALA REP. BY
THE SECRETARY TO THE GOVERNMENT,
LOCAL SELF GOVERNMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

R3 BY GOVERNMENT PLEADER SMT.C.K.SHERIN
R1 & R2 BY SRI.C.A.NAVAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 5060 of 2015 (F)

PETITIONER'S EXHIBITS:

EXT P1 : PHOTOSTAT COPY OF THE LOCATION SKETCH NO.NIL DATED NIL, SHOWING THE EXTENT OF LAND SURRENDERED.

EXT P1(a) : TRUE TRANSLATION OF EXT P1

EXT P2 : PHOTOSTAT COPY OF THE LETTER DATED 16-06-2014.

EXT P2(a) : TRUE TRANSLATION OF EXT P2

EXT P3 : THE PHOTOCOPY OF THE APPLICATION DATED 21-05-2014.

EXT P3(a) : TRUE TRANSLATION OF EXT P3

EXT P4 : THE PHOTOCOPY OF THE APPLICATION FOR REGULARIZATION DATED 19-05-2014.

EXT P5 : THE PHOTOCOPY OF THE LETTER NO.A2-4755/14 DATED 04.08.2014.

EXT P5(a) : TRUE TRANSLATION OF EXT P5

EXT P6 : THE PHOTOSTAT COPY OF THE LETTER NO.A2-4755/14 DATED 04.10.2014.

EXT P6(a) : TRUE TRANSLATION OF EXT P6

EXT P7 : THE PHOTOSTAT COPY OF THE SKETCH CONTAINING THE REPORT OF ASSISTANT ENGINEER LSGD NUMBER NIL DATED NIL.

EXT P7(a) : TRUE TRANSLATION OF MALAYALAM PORTION OF EXT P7

EXT P8 : THE PHOTOSTAT COPY OF THE REGULARISATION APPLICATION DATED 12-01-2015.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.5060 of 2015 F

Dated this the 18th day of February, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Grama Panchayat, 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. Briefly stated, the petitioner constructed a residential building in 2007 after surrendering an extent of 3.53 ares of land free of cost to the Grama Panchayat. In course of time, when the petitioner filed Exhibits P3 and P4 applications for allotment of building number and regularisation respectively, the respondent Grama Panchayat issued Exhibit P6 letter pointing out that there are certain projections beyond the permissible limit and

that those deviations are to be rectified before the petitioner's applications could be considered. The respondent Grama Panchayat has further directed the petitioner to submit necessary records to substantiate her claim that she had already surrendered certain extent of land in favour of the Grama Panchayat.

3. In fact, through Exhibit P7 the Assistant Engineer has certified that the petitioner had surrendered the land for road and that the first respondent can assign building number if the conditions prescribed in Rule 82 of the Kerala Panchayat Building Rules, 2011 are complied with. Under these circumstances, impugning the inaction of the first respondent in not considering the petitioner's applications, she has filed the present writ petition.

4. The learned Standing Counsel for the respondent Grama Panchayat has submitted that for regularising the minor deviations in terms of Rule 82 of the Rules, the

Government is required to constitute a special committee, which has not so far been done. Under these circumstances, the petitioner's applications, submits the learned Standing Counsel, cannot be considered by the respondent Grama Panchayat.

5. Be that as it may, the very Rule 82 has been couched in permissive terms to the effect that the Government may, on receipt of the request from any Grama Panchayat or its own, if found necessary, constitute a special committee. At any rate, in the absence of any special committee having been constituted, the processing of the applications cannot be withheld ad infinitum. Especially going by Exhibit P7 report by the Assistant Engineer, I deem it appropriate to direct the first respondent - Secretary to consider the petitioner's applications in Exhibits P4 and P8 without reference to the Special Committee, which has not so far been constituted under

Rule 82 of the Rules and process those applications for the purpose of regularisation and assigning building number in accordance with law. It is needless to observe that the first respondent may complete the process as expeditiously as possible.

With the above direction, the writ petition stands disposed of. No order as to costs.

Dama Seshadri Naidu, Judge

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