

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

WP(C).No. 6820 of 2015 (B)

PETITIONER(S):

**K.A.WILLIAMS,
KANGAPPADAN HOUSE, ERINJERI ANGADI,
CHEMBUKAVU, THRISSUR.**

BY ADV. SRI.K.B.GANGESH

RESPONDENT(S):

- 1. CORPORATION OF THRISSUR, REP. BY ITS SECRETARY,
THRISSUR-680 001.**
- 2. THE DISTRICT TOWN PLANNER,
CORPORATION OF THRISSUR, THRISSUR-680 001.**
- 3. THE EXECUTIVE ENGINEER,
CORPORATION OF THRISSUR, THRISSUR-680 001.**

**BY ADVS. SRI.K.P.VIJAYAN
SRI.V.N.HARIDAS**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 6820 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF BUILDING PERMIT NO.DW15/BA/457/10-11
DATED 8.3.2013.**

**EXHIBIT P2: TRUE COPY OF ORDER DATED 5.1.2015 ISSUED BY THE
3RD RESPONDENT.**

EXHIBIT P2(A): TRUE ENGLISH TRANSLATION OF EXHIBIT P2.

RESPONDENT(S)' EXHIBITS:

**EXT.R1(a): A TRUE COPY OF THE G.O.BEARING NO.G.O.(MS)123/08/LSGD
DTD.28.4.2008.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.6820 of 2015

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Dated this the 25th day of May, 2015

JUDGMENT

Ext.P2 by which petitioner's application for building permit was rejected by the third respondent is under challenge.

2. The petitioner owns 19.88 acres of land in Sy. No.35/P and 36/P of Poonkunnam village, Thrissur taluk as per document no.2311/1995 of Thrissur Sub Registrar's Office. The petitioner alleges that he applied for constructing a residential building in the aforesaid property and the respondents vide Ext.P1 granted permit for the same.

3. The petitioner further alleges that originally he intended to construct a residential house in the property and building permit was obtained. The petitioner further alleges that the property situated is in a pucca commercial area with a hospital functioning in front, on the opposite side of the road. Therefore, he realised that construction

of a residential house would not be practical and he converted the residential permit to that of special residential building group for starting a hotel. For that he submitted an application on 18.12.2014 which was rejected by the 3rd respondent on the ground that the property falls under paddy zone in the master plan approved by the corporation by Ext.P2.

4. The respondents have filed a counter affidavit refuting the allegations contained in the writ petition.

5. I have heard the learned counsel for the petitioner and the learned counsel for the respondent corporation.

6. The learned counsel 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.P2 is quashed and the respondent corporation is 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.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj

