

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 7219 of 2015 (B)

PETITIONER:

D.VIJAYAKUMARAN NAIR,
TC 8/203, VIJAYAGIRI, KUNNATHUMURIYIL,
CHERUVAKKAL, SREEKARIYAM.(P.O).
THIRUVANANTHAPURAM-695 017.

BY ADVS.SRI.M.RAJAGOPALAN NAIR
SRI.G.BIJU

RESPONDENTS:

1. CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY, CORPORATION BUILDING,
PALAYAM, THIRUVANANTHAPURAM.
2. THE TOWN PLANNING OFFICER,
TOWN PALANNING OFFICE,
CORPORATION OF THIRUVANANTHAPURAM,
THIRUVANANTHAPURAM.
3. THE EXECUTIVE ENGINEER,
N.H. DIVISION, P.W.D., THIRUVANANTHAPURAM.
4. KERALA MONO RAIL CORPORATION LTD.,
REPRESENTED BY ITS CHIEF GENERAL MANAGER, KOWDIAR,
THIRUVANANTHAPURAM.

R4 BY ADV. SRI.ZAKEER HUSSAIN
R BY SRI. G. GOPAKUMARAN, GOVERNMENT PLEADER
R BY SRI.P.K.MANOJKUMAR,SC,TVPM CORPORATION

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. TRUE COPY OF THE APPLICATION FOR BUILDING PERMIT DATED 15-5-2014 SUBMITTED BY PETITIONER BEFORE THE 1ST RESPONDENT CORPORATION.

EXT.P2. TRUE COPY OF THE LETTER DATED 12-9-2014 ISSUED BY THE TOWN PLANNING OFFICER ATTACHED TO THE CITY CORPORATION.

EXT.P3. TRUE COPY OF THE LETTER SENT BY 1ST RESPONDENT TO THE 3RD RESPONDENT DATED 16-9-2014 CALLING FOR THEIR RAMARKS.

EXT.P4. TRUE COPY OF THE LETTER DATED 1-11-14 GIVEN BY PETITIONER TO THE FOURTH RESPONDENT.

EXT.P5. TRUE COPY OF THE LETTER DATED 25-11-14 SENT BY 3RD RESPONDENT.

EXT.P6. TRUE COPY OF THE UNDERTAKING GIVEN BY PETITIONER DATED 22-11-14.

EXT.P7. TRUE COPY OF THE LETTER DATED 6-12-14 SENT BY CITY CORPORATION TO THE 4TH RESPONDENT.

EXT.P8. TRUE COPY OF THE CHEQUE ISSUED BY PETITIONER TO THE BUILDING FOR RS. 75 LAKHS DATED 5-5-2014.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 7219 of 2015 (B)

Dated this the 1st day of April, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondents 1 and 2 as well as the 4th respondent, apart from perusing the record.

2. Briefly stated, when the petitioner submitted Ext.P1 application for building permit on 15.05.2014, the second respondent informed him through Ext.P2 that he was required to obtain a 'No Objection Certificate' from the 3rd respondent. When the application was forwarded to the 3rd respondent for his consent, the said authority through Ext.P5 issued consent subject to the condition that the petitioner should set apart 14 metres from open yard to the centre line of National Highway, in addition to the front yard specified in Kerala Municipality Building Rules.

3. Since the property is situated in close proximity to the proposed Mono Rail Project of the 4th respondent, the first

respondent also forwarded the application to the 4th respondent through Ext.P7 for its consent. That apart, the petitioner, on his part, is also said to have submitted Ext.P4 to the same authority, apart from executing Ext.P6 consent in favour of the first respondent Corporation undertaking that he is ready to demolish any part of the building at his own expense, if any further space is required in future.

4. The present grievance of the petitioner is that unless the 4th respondent considers the petitioner's application and issues necessary consent, his application cannot be further processed by respondents 1 and 2. Accordingly, the learned counsel for the petitioner has urged this Court to issue a suitable direction.

5. The learned Standing Counsel for the 4th respondent has submitted that the 4th respondent is willing to consider the application forwarded by respondents 1 and 2 in accordance with law.

6. The learned Standing Counsel for respondents 1 and 2

has also submitted that the Corporation does not have any objection in considering the petitioner's application, once it receives the necessary clearance from the 4th respondent.

In the facts and circumstances, having regard to the respective submissions of the learned counsel on both sides, this Court disposes of the writ petition with a direction to the 4th respondent to consider Ext.P7 expeditiously and communicate the necessary information to the first respondent as expeditiously as possible, at any rate within thirty days' from the date of receipt of a copy of this judgment.

sd/- DAMA SESHADRI NAIDU, JUDGE.

