

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 7503 of 2015 (K)

PETITIONER :

**THE KARASSERY SERVICE CO-OPERATIVE BANK LTD.,
NO. D.2628, KARASSERY P.O., KOZHIKODE - 673 602,
REPRESENTED BY ITS SECRETARY.**

**BY SRI.P.RAVINDRAN,SENIOR ADVOCATE
ADV. SRI.M.R.SABU**

RESPONDENT(S):

- 1. KOZHIKODE CORPORATION,
KOZHIKODE - 673 001, REPRESENTED BY ITS SECRETARY.**
- 2. THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE SECRETARY,
KOZHIKODE CORPORATION, KOZHIKODE - 673 001.**

**R1 & R3 BY SRI.K.D.BABU,SC,KOZHIKODE CORPORATION
R2 BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 7503 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1- TRUE COPY OF THE GOVERNMENT ORDER GRANTING EXEMPTION
DATED 04/11/2014.**

**EXHIBIT-P2- TRUE COPY OF THE ORDER REJECTING THE APPLICATION FOR
BUILDING PERMIT DATED 06/11/2014 WITH TRANSLATION.**

**EXHIBIT-P3- TRUE COPY OF THE ORDER DATED 16/02/2015 PASSED BY THE LOCAL
SELF GOVERNMENT INSTITUTIONS.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 7503 of 2015

Dated this the 10th day of March, 2015

J U D G M E N T

The petitioner, which is a Co-operative Society classified as an Agricultural Credit Society, purchased 63.49 cents of land in R.S.No.453B, Kootoli Village within the local limits of the respondent corporation. Since the extent of land purchased was lying outside the area of operation of the petitioner society, an exemption from the operation of Section 7 of the Co-operative Societies Act was obtained from the Government of Kerala under Section 101 of the Co-operative Societies Act. After obtaining permission from the Government, the petitioner submitted an application to the 3rd respondent for permission to effect construction, which was rejected by Ext.P2 order stating two reasons, i.e., (1) Since Kanoli Canal is located within a distance of 25 meters, permission from the Coastal Zone Management Authority

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is required; and (2) The land comes within the purview of the Kerala Conservation of Paddy and Wet Lands Act, 2009. According to the petitioner, as the canal is situated far away from the proposed building site, permission from the coastal authority is not required. As regards the second reason, the petitioner pointed out that the land is not included in the data bank under the said enactment and as such, the provisions to that Act also would not apply. It was further stipulated in Ext.P2 that No Objection Certificate from the Fire Department, consent from the Kerala State Pollution Control Board and approval of layout from the Chief Town Planner have to be obtained. The petitioner pointed out that the provision of the Kerala Municipality Building Rules makes it clear that it is the duty of the Secretary of the corporation to get approval of authorities like Chief Town Planner, Pollution Control Board etc.

2. The petitioner approached the 2nd respondent challenging Ext.P2 order, which rejected the appeal on a

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ground, which, according to the petitioner, is totally extraneous. However, the 2nd respondent, after considering the matter at length found that the reasoning of the Secretary of the respondent corporation is unsustainable. The 2nd respondent went on to hold that since a writ petition is pending before this Court challenging the order of the Government granting exemption to the petitioner society, it would not be proper to issue directions. The 2nd respondent has required the petitioner to await decision in the writ petition. According to the petitioner, the pendency of the writ petition before this Court is no reason for refusal of granting building permit. It is in this context, the petitioner has come up before this Court.

3. Arguments have been heard.

4. After hearing both sides, this Court is of the view that a direction can be issued to the Tribunal for Local Self Government Institutions for a speedy disposal of the appeal filed by the petitioner after quashing the

decreetal portion of Ext.P3.

In the result, the writ petition is disposed of. The decreetal portion of Ext.P3 is quashed. The matter is remitted back to the Tribunal for Local Self Government Institutions for consideration of final orders in the appeal after affording the petitioner and the affected parties, if any, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-