

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 8259 of 2015 (F)

PETITIONER(S) :

1. N.M.KHALEEL AGED 43 YEARS
S/O.N.K.MOIDEEN, KHALEEL MANZIL
S.H.MOUNT P.O, KOTTAYAM
2. N.M.MUSTHAFA, AGED 46 YEARS
S/O.N.K.MOIDEEN, KHALEEL MANZIL
S.H.MOUNT P.O, KOTTAYAM

BY ADVS.SRI.K.ABDUL JAWAD
SRI.MATHEW A KUZHALANADAN

RESPONDENT(S) :

1. THE KOTTAYAM MUNICIPALITY
REP BY ITS SECRETARY
KOTTAYAM-686 001.
2. THE SECRETARY
KOTTAYAM MUNICIPALITY
KOTTAYAM-686 001.

R1&2 BY ADV. SRI.PHILIP J.VETTICKATTU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)NO.8259/2015

APPENDIX

PETITIONERS EXHIBITS

P1-TRUE COPY OF THE FIRST PAGE OF THE BUILDING PERMIT GRANTED ON
8.6.2012 ALONG WITH ENGLISH TRANSLATION

P2-TRUE COPY OF THE APPLICATION DATED 6.11.2013 ALONG WITH ITS ENGLISH
TRANSLATION

P3-TRUE COPY OF THE ORDER ALONG WITH ENGLISH TRANSLATION

P4-TRUE PHOTOGRAPHS OF THE PLOT OWNED BY THE PETITIONERS AND THE NEARBY
AREA

RESPONDENTS EXHIBITS

NIL

TRUE COPY

SKS

P.A TO JUDGE

V.CHITAMBARESH, J.

W.P(C)NO. 8259 OF 2015

Dated this the 9th day of November, 2015

JUDGMENT

The parties are at variance as to whether the detailed town planning scheme has become obsolete in view of passage of time. There is paucity of evidence at this juncture to hold that the detailed town planning scheme is being implemented with full vigour. The question whether such scheme could be put against the petitioners who seek change of occupancy of the building in question needs detailed consideration.

2. The petitioners add that the surrounding property is fully developed and dotted with buildings. The petitioners contend that no prejudice would be caused by converting the upper two floors as commercial when the ground floor has been permitted to be used as commercial premises. I find that the matter requires a de novo consideration at the hands of the Municipality for which I quash Ext.P3 memorandum.

3. The second respondent shall pass orders anew after notice to the petitioners in accordance with law within two months.

The writ petition is disposed of as above.

V.CHITAMBARESH, JUDGE

sks