

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No. 8346 of 2015 (P)

PETITIONER(S):

**RAJESH KUMAR.K.,
S/O.MADHAVAN NAIR, KAMALAMADHAVAM, P.O.PULLUVAZHI,
THRISSUR-12.**

BY ADV. SRI.P.N.MOHANAN

RESPONDENT(S):

**AVANUR GRAMA PANCHAYATH,
REPRESENTED BY SECRETARY, VALAPPAYA P.O.,
P.O.MEDICAL COLLEGE, THRISSUR-680 596.**

BY ADV. SRI.K.B.GANGESH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: A TRUE COPY OF THE SKETCH OF THE PETITIONER'S PROPERTY.**
- EXT.P2: A TRUE COPY OF THE POSSESSION AND LOCATION CERTIFICATE OF
THE PETITIONER'S PROPERTY.**
- EXT.P3: A TRUE COPY OF THE LAND TAX PAID BY THE PETITIONER DATED
19.8.2014.**
- EXT.P3(A): A TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P3.**
- EXT.P4: A TRUE COPY OF THE PLAN SUBMITTED BY THE PETITIONER.**
- EXT.P5: A TRUE COPY OF THE LETTER DATED 22.8.2014 ISSUED BY THE
RESPONDENT.**
- EXT.P5(A): A TRUE COPY OF THE DTP OF THE LETTER DATED 22.8.2014.**
- EXT.P5(B): A TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P5.**
- EXT.P6: A TRUE COPY OF THE JUDGMENT DATED 20.10.2011 IN WP(C)
NO.23281/11.**
- EXT.P7: A TRUE COPY OF THE JUDGMENT DATED 21.3.13 IN WP(C)NO.4720/13.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

.....

W.P.(C) No. 8346 of 2015

.....

Dated this the 8th day of July, 2015

JUDGMENT

The petitioner has come up before this Court for a direction to the respondent to consider the petitioner's application for building permit without insisting development permit of the road leading to the property of the petitioner and others.

- 2.The petitioner herein is the owner in possession of 7.640 cents of land in resurvey No.339 block 55 of Avanur Grama Panchayath. It is a common plot developed by a private party and petitioner purchased that property from that developer. It is a garden land and petitioner got certificate to that effect from the Village Officer, Choolissery. The petitioner applied to the respondent-Panchayath for a building permit for construction a residential house in the aforementioned property. Since no action was seen taken pursuant to the said application the petitioner made enquiries with respondent panchayath, and the respondent by Ext.P1 intimated the petitioner that, since the land in which the building sought to be constructed forms part of a

larger extent of land divided into small plots, the permit for construction in the plot owned by the petitioner can be carried out only after approval of the lay out by the District Town Planner in respect of internal roads/road provided in the developed plot.

3.Arguments have been heard.

4.The Kerala Municipality Building Rules provides for how an application for building permit has to be entertained. Further, Rule 12 of the Kerala Municipality Building Rules provides for grounds on which an application for building permit may be rejected. It is submitted that the ground on which the application filed by the petitioner was rejected by the respondent-Panchayath is not relatable to any of the ground set out in Rule 12. It was pointed out by the learned counsel for the petitioner that, in identical cases, wherein panchayath had declined to consider the application for building permit citing the very same reason as in the resent case, this Court set aside the impugned order and had directed the panchayath to take steps to issue building

permit to the petitioners therein. Exts.P6 and P7 are the copies of the judgments in those cases.

5.The learned counsel for the petitioner relied on Ext.P6 judgment, which states that an application for building cannot be rejected for the reason that no development has been obtained. In the light of the above, the learned counsel for the petitioner has sought a direction to the respondent to consider the application submitted by the petitioner for building permit.

On a consideration of the materials now placed on board, this writ petition is disposed of, directing the respondent Municipality to consider and pass positive orders on the application for building permit in the light of Ext.P6 judgment, after affording the petitioner an opportunity of being heard, within a period of two weeks from the date of receipt of a copy of this judgment.

sd/-

A.V.RAMAKRISHNA PILLAI, JUDGE

AMV/09/07/