IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 9443 of 2015 (E)

PETITIONER(S):

1. **JESSIN TOM JAMES, S/O.JAMES,**
   AGED 32 YEARS, J.M. VILLA, CHALAYKKAL,
   MUTTAMBALAM P.O., NATTASSERY KARA,
   MUTTAMBALAM VILLAGE, KOTTAYAM TALUK,
   KOTTAYAM DISTRICT, REPRESENTED BY RINOY RAPHEAL,
   S/O.RAPHEAL, AGED 35 YEARS, THAIKATTIL VILLEDOM,
   ALUVA P.O., ALUVA EAST VILLAGE, ALUVA TALUK,
   ERNAKULAM DISTRICT.

2. **JUDY ROSE JAMES, D/O.JAMES,**
   AGED 35 YEARS, J.M. VILLA, CHALAYKKAL,
   MUTTAMBALAM P.O., NATTASSERY KARA,
   MUTTAMBALAM VILLAGE, KOTTAYAM TALUK,
   KOTTAYAM DISTRICT, REPRESENTED BY RINOY RAPHEAL,
   S/O.RAPHEAL, AGED 35 YEARS, THAIKATTIL VILLEDOM,
   ALUVA PO, ALUVA EAST VILLAGE, ALUVA TALUK,
   ERNAKULAM DISTRICT.

   BY ADV. SRI.P.M.ZIRAJ.

RESPONDENT(S):

1. **THE LOCAL LEVEL MONITORING COMMITTEE,**
   KOTTAYAM, KOTTAYAM DISTRICT,
   REPRESENTED BY ITS CONVENER,
   AGRICULTURAL OFFICER, KOTTAYAM,
   KOTTAYAM DISTRICT, PIN- 686 004.

2. **THE DISTRICT LEVEL AUTHORIZED COMMITTEE,**
   MALAPPURAM DISTRICT, REPRESENTED BY ITS CHAIRMAN,
   REVENUE DIVISIONAL OFFICER (RDO), KOTTAYAM,
   KOTTAYAM DISTRICT, PIN- 686 004.

3. **REVENUE DIVISIONAL OFFICER (RDO),**
   KOTTAYAM, KOTTAYAM DISTRICT, PIN -686 004.

4. THE VILLAGE OFFICER,
MUTTAMBALAM VILLAGE,
KOTTAYAM DISTRICT-686 004.

5. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
AGRICULTURAL DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695 001.

BY GOVT. PLEADER SRI.P.K. SOYUZ.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

P1: TRUE COPY OF THE TAX RECEIPT DATED 23.01.2015 ISSUED BY THE FOURTH RESPONDENT TO THE FIRST PETITIONER.

P2: TRUE COPY OF THE TAX RECEIPT DATED 23.01.2015 ISSUED BY THE FOURTH RESPONDENT TO THE SECOND PETITIONER.

P3: TRUE COPY OF THE CERTIFICATE ISSUED BY THE FIRST RESPONDENT TO THE FIRST PETITIONER DATED 07.12.2012 PERMITTING HIM TO CONSTRUCT RESIDENTIAL BUILDING IN THE LAND COVERED BY EXHIBIT P1.

P4: TRUE COPY OF THE CERTIFICATE ISSUED BY THE FIRST RESPONDENT TO THE SECOND PETITIONER DATED 07.12.2012 PERMITTING HIM TO CONSTRUCT RESIDENTIAL BUILDING IN THE LAND COVERED BY EXHIBIT P2.

P5: TRUE COPY OF THE BUILDING PERMIT DATED 26.11.2012 ISSUED BY THE KOTTAYAM MUNICIPALITY TO THE FIRST PETITIONER.

P6: TRUE COPY OF THE BUILDING PERMIT DATED 26.11.2012 ISSUED BY THE KOTTAYAM MUNICIPALITY TO THE SECOND PETITIONER.

P7: TRUE COPY OF THE COMPLAINT DATED 07.12.2012 SUBMITTED BY THE SECRETARY, ERANJAL RESIDENTS' WELFARE ASSOCIATION BEFORE THE THIRD RESPONDENT.

P8: TRUE COPY OF THE STOP MEMO ISSUED BY THE THIRD RESPONDENT DATED 15.05.2013.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.9443 of 2015

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Dated this the 15th day of October, 2015

JUDGMENT

The petitioners approached the Local Level Monitoring Committee to reclaim five cents of land each for putting up of residential buildings. It appears that the Local Level Monitoring Committee appears to have accorded recommendation. Based on the recommendation of the Local Level Monitoring Committee, the Kottayam Municipality has granted permissions to the petitioners to put up residential buildings. It appears that the local residents association objected reclamation and the Revenue Divisional Officer passed Ext.P8 order. The petitioners challenge Ext.P8 order.

This Court is of the view, the petitioners cannot undertake any construction unless the second respondent passed an order based on the recommendation of the Local Level Monitoring Committee. Therefore, following directions are issued:

i. The first respondent is directed to forward the recommendation to the second respondent within two weeks.

ii. Thereafter, the second respondent shall take a decision on the recommendation within a further period of four weeks.

iii. The petitioners are free to undertake the construction if the second respondent grants permission.

iv. It is made clear that the construction shall be strictly in accordance with the permission granted by the second respondent.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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