

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 10606 of 2015 (A)

PETITIONER: -

KRISHNAN K.N., AGED 59 YEARS,
S/O. NARAYANAN, KANNIMITTATHU HOUSE,
ULAVAPPU P.O., THYKKATTUSSERY VILLAGE,
CHERTHALA TALUK, ALAPPUZHA DISTRICT.

BY ADV. SRI P. V. DILEEP

RESPONDENTS:-

1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM-695001.
2. THE CHIEF TOWN PLANNER,
OFFICE OF THE CHIEF TOWN PLANNER,
DEPARTMENT OF TOWN AND COUNTRY PLANNING, 2ND FLOOR,
SWARAJ BHAVAN, NANTHANCODE, KAWADIYAR P.O.,
THIRUVANANTHAPURAM-33.
3. THE DISTRICT TOWN PLANNER,
OFFICE OF THE DISTRICT TOWN PLANNER,
CIVIL STATION ANNEX, OPPOSITE BOAT JETTY, ALAPPUZHA,
PIN-688013.
4. THE SECRETARY,
CHENNAM PALLIPPURAM GRAMA PANCHAYATH,
PALLIPPURAM P.O., CHERTHALA TALUK,
ALAPPUZHA DISTRICT.

BY Sr. GOVERNMENT PLEADER SMT. C.K. SHERIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE LETTER OF INTENT DATED 10-07-2013 WITH
REF. NO. S&M/0116/MS/13 FROM TATA OIL INDIA PRIVATE LIMITED.

EXHIBIT P2 : TRUE COPY OF THE APPROVAL ISSUED FROM PETROLEUM AND
SAFETY ORGANIZATION (DEPT. OF EXPLOSIVES) DATED 11-11-
2013, NO.A/G/SC/KL/06/911 (G35525).

EXHIBIT P3 : TRUE COPY OF THE APPLICATION FOR BUILDING PERMIT DATED
29-11-2013 BEFORE THE 3RD RESPONDENT.

EXHIBIT P4 : THE APPROVED SKETCH PLAN AND ITS LAYOUT BEFORE THE 2ND
RESPONDENT OF PETITIONERS BUILDING SITE.

EXHIBIT P5 : COPY OF THE LETTER RECOMMENDING THE 2ND RESPONDENT
ABOUT PETITIONER HAS AVALED THE PRESCRIBED ROAD
ACCESS UNDER THE KERALA PANCHAYATH BUILDING RULES BY
THE 4TH RESPONDENT SECRETARY AND ITS ENGLISH
TRANSLATION.

EXHIBIT P6 : COPY OF THE COMMUNICATION SENT BY THE 2ND RESPONDENT
TO THE PETITIONER DATED 24-03-2015 AND ITS ENGLISH
TRANSLATION.

EXHIBIT P7 : COPY OF THE REPLY LETTER ISSUED BY THE 2ND RESPONDENT
UNDER THE RIGHT TO INFORMATION ACT SHOWING THE WIDTH
OF ROAD FOR A BUILDING CONSTRUCTED UNDER THE GROUP-I
CATEGORY AND ITS ENGLISH TRANSLATION.

EXHIBIT P8 : COPY OF THE RELEVANT PORTION OF THE RULE 61(4) PROVISIO 1
OF THE KERALA PANCHAYATH BUILDING RULES.

EXHIBIT P9 : COPY OF THE REPRESENTATION FILED BY THE PETITIONER
BEFORE THE 1st RESPONDENT DATED 20-11-2015 AND ITS ENGLISH
TRANSLATION.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 10606 of 2015

Dated this the 09th day of April, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, when the petitioner submitted Exhibit P3 application for building permit to construct an LPG godown, the fourth respondent, in turn, has forwarded the same to the second respondent. On verification of the petitioner's application, the second respondent issued Exhibit P6 communication to the petitioner requiring him to comply with certain objections, including that of access to the proposed construction, which should be at least 7 meters wide. Having sent reply stressing that since the plinth area

of the building is less than 30 sq. meters, the access should be only three meters width, questioning the inaction of the second respondent in considering petitioner's application, he has filed the present writ petition.

3. The learned counsel for the petitioner has submitted that as could be seen from Exhibit P6 communication issued by the very second respondent and also the statutory extract in Exhibit P8, i.e. Rule 61(4) of the Kerala Panchayat Building Rules, 2011, the requirement is only three meters, whereas the petitioner has more than five meters of access.

4. The learned Government Pleader has submitted that the second respondent is willing to reconsider petitioner's application in the light of Exhibits P7 and P8.

5. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Government Pleader for the respondents, without expressing any opinion on the merits of the matter, this Court disposes of the present writ petition with a direction to the second respondent to consider Exhibit P3 application of the petitioner in the light of Exhibits P7 and P8 and pass appropriate orders thereon as expeditiously

as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

With the above observation, this writ petition is disposed of.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-