

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 11268 of 2015 (G)

PETITIONER:

T.S.ASOK,S/O.LATE V.T.NAIR, AGED 48 YEARS,
MANAGING DIRECTOR, ARTECH REALTORS
PVT. LTD., T.C.15/1453, AIR ROAD,
VAZHUTHACAUD, THIRUVANANTHAPURAM.

BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA

RESPONDENTS:

1. CORPORATION OF THIRUVANANTHAPURAM,
REP. BY ITS SECRETARY, THIRUVANANTHAPURAM.
2. THE SECRETARY,
CORPORATION OF THIRUVANANTHAPURAM.

BY ADV. SRI.P.K.MANOJKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 11268 of 2015 (G)

PETITIONER'S EXHIBITS:

EXT P1 : TRUE COPY OF ORDER OF THE CHIEF TOWN PLANNER DATED 29.10.2011.

EXT P1(a) : ENGLISH TRANSLATION OF EXT P1.

EXT P2 : TRUE COPY OF PLAN SUBMITTED BY THE PETITIONER.

EXT P3 : TRUE COPY OF BUILDING PERMIT DATED 24-12-2011 ISSUED BY THE SECRETARY, TRIVANDRUM CORPORATION AND ENGLISH TRANSLATION OF EXT P3.

EXT P4 : TRUE COPY OF BUILDING PERMIT NO.E6/BA/0098/11 DATED 17.06.2014 ISSUED BY THE SECRETARY, TRIVANDRUM CORPORATION AND ENGLISH TRANSLATION OF EXT P4.

EXT P5 : TRUE COPY OF ORDER IN IA.NO.834/2014 DATED 30-07-2014 PASSED BY KERALA LOK AYUKTA, THIRUVANANTHAPURAM.

EXT P6 : TRUE COPY OF LETTER DATED 02-05-2014 ISSUED BY THE ADDITIONAL SECRETARY TO PRINCIPAL SECRETARY TO GOVERNMENT.

EXT P7 : TRUE COPY OF REPORT DATED 20-08-2014 SUBMITTED BY THE DIRECTOR, SURVEYS AND LAND RECORDS OBTAINED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT AND ENGLISH TRANSLATION OF EXT.P7.

EXT P8 : TRUE COPY OF SKETCH SUBMITTED BY THE DIRECTOR, SURVEYS AND LAND RECORDS OBTAINED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT.

EXT P9 : TRUE COPY OF STOP MEMO NO.E6/BA/0098/11 DATED 01-07-2014 ISSUED BY THE SECRETARY, TRIVANDRUM CORPORATION TO THE PETITIONER.

EXT P9(a) : ENGLISH TRANSLATION OF EXT P9.

EXT P10 : TRUE COPY OF REPLY DATED 14-07-2014 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY, CORPORATION OF TRIVANDRUM.

EXT P11 : TRUE COPY OF SHOW CAUSE NOTICE DATED 15-07-2014 ISSUED BY THE SECRETARY, CORPORATION OF TRIVANDRUM TO THE PETITIONER.

EXT P12 : TRUE COPY OF REPLY DATED 23-07-2014 TO EXT P12 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY, CORPORATION OF TRIVANDRUM.

EXT P13 : TRUE COPY OF ORDER IN APPEAL NO.862/2014 DATED 29-10-2014 OF TRIBUNAL FOR LOCAL SELF GOVT. INSTITUTIONS, TRIVANDRUM.

EXT P14 : TRUE COPY OF REPRESENTATION DATED 12-09-2014 SUBMITTED BY THE PETITIONER BEFORE THE PRINCIPAL SECRETARY, REVENUE DEPARTMENT.

EXT P15 : TRUE COPY OF JUDGMENT IN WPC.NO.30863/2014 DATED 02.12.2014 OF HON'BLE HIGH COURT OF KERALA.

EXT P16 : TRUE COPY OF REPRESENTATION DATED 04-11-2014 SUBMITTED BY THE PETITIONER BEFORE THE GOVERNMENT.

EXT P17 : TRUE COPY OF ORDER DATED 04-11-2014 OF THE GOVERNMENT.

EXT P17(a) : ENGLISH TRANSLATION OF EXT P17

EXT P18 : TRUE COPY OF REPRESENTATION DATED 02-12-2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT P19 : TRUE COPY OF A SET OF RECTIFIED PLANS WITH A COVERING LETTER DATED 07-01-2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT P20 : TRUE COPY OF LETTER DATED 28-02-2015 ISSUED BY 2ND RESPONDENT TO THE PETITIONER.

EXT P20(a) : ENGLISH TRANSLATION OF EXT P20.

EXT P21 : TRUE COPY OF EXPLANATION DATED 07-03-2015 SUBMITTED BY THE PETITIONER.

RESPONDENT'S EXHIBITS:

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.11268 of 2015 G

Dated this the 8th day of April, 2015

JUDGMENT

Very succinctly stated, the construction undertaken by the petitioner is the subject matter of the proceedings before the Lok Ayukta. Through Exhibit P15 judgment dated 02.12.2014 in W.P.(C)No.30863/2014 this Court has observed that the constructions being made by the petitioner shall be subject to the outcome of the decision to be taken by the Lok Ayukta regarding the complaint made by the second respondent therein.

2. While the petitioner has been proceeding with the construction, the respondent Corporation is said to have issued Exhibit P20 notice after scrutiny of the petitioner's application for rectified plan. Since one of the conditions imposed therein is that the petitioner should stop further

construction as a pre-condition for considering the petitioner's application by the respondent Corporation, he has filed the present writ petition.

3. The learned Standing Counsel for the respondent Corporation has, however, submitted that though the petitioner could proceed with the construction at his own risk, the fact remains that Exhibit P20 contains certain other objections which are required to be cleared by the petitioner before his application for rectified plan could be considered.

4. Indeed, the issue has been comprehensibly seized of by the learned Lok Ayukta. This Court has earlier observed in Exhibit P15 judgment that all further developments concerning the construction by the petitioner shall be subject to the outcome of the decision to be rendered by the learned Lok Ayukta. Further, the petitioner cannot claim any equities and the construction thus being made shall be at his own risk.

5. Needless to observe, if the petitioner is required to comply with any other parameters indicated in Exhibit P20 or otherwise, it is left open for the petitioner to comply with the same. The respondent Corporation is at liberty to take all further steps, short of obstructing the construction, to consider the petitioner's application for rectified plan.

With the above observation, the writ petition stands disposed of without prejudice to the cause of either of the parties before the learned Lok Ayukta.

sd/- Dama Seshadri Naidu, Judge

tkv