

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. 11979 of 2015 (V)

PETITIONER:

1. AMBIKA T.A., AGED 66 YEARS,
W/O. LATE SREEKUMAR,
"DEEPAM", KUTHIRAVATTAM (PO),
KOZHIKODE.
2. DEEPA T.A., W/O. DHANEESH,
AGED 40 YEARS, "DEEPAM", KUTHIRAVATTAM (PO),
KOZHIKODE.

BY ADVS.SRI.P.R.SREEJITH
SRI.M.PROMODH KUMAR
SMT.MAYA CHANDRAN

RESPONDENTS:

1. THE VILLAGE OFFICER, KOTTOOLI,
KOZHIKODE TALUK AND DISTRICT - 673 001.
2. THE SECRETARY, KOZHIKODE MUNICIPAL CORPORATION,
KOZHIKODE DISTRICT - 673 001.
3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, LOCAL SELF GOVERNMENT
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

R2 BY ADV. SRI.P.V.SURENDRANATH,SC,KOZHIKODE CORPORATION
R BY SRI. K.A. SANJEETHA, GOVERNMENT PLEADER
R BY SRI.K.D.BABU,SC,KOZHIKODE CORPORATION

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

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : TRUE COPY OF THE PHOTOGRAPHS OF THE PETITIONERS' HOUSE AND ITS VICINITY.
- EXT.P2 : TRUE COPY OF LOCATION SKETCH OF THE PETITIONERS' PROPERTY ISSUED BY THE 1ST RESPONDENT ALONG WITH ENGLISH TRANSLATION OF THE ENTRY IN MALAYALAM.
- EXT.P3 : TRUE COPY OF THE LAND TAX RECEIPTS FOR THE YEAR 2013-2014 IN RESPECT OF EXT.P1 PROPERTY ALONG WITH ENGLISH TRANSLATION OF THE ENTRY IN MALAYALAM.
- EXT.P4 : TRUE COPY OF THE BUILDING TAX RECEIPT (2015-2016) FOR EXT.P1 HOUSE ISSUED BY THE 2ND RESPONDENT.
- EXT.P5 : TRUE COPY OF THE PERMIT FEE RECEIPT DATED 03.12.2013 OF THE 2ND RESPONDENT.
- EXT.P6 : TRUE COPY OF THE PETITIONERS' POSSESSION CERTIFICATE DATED 24.10.2013 IN RESPECT OF EXT.P1 PROPERTY ALONG WITH ENGLISH TRANSLATION.
- EXT.P7 : TRUE COPY OF THE CERTIFICATE OF NON-INCLUSION OF THE PETITIONER'S PROPERTY IN DATA BANK DATED 13.11.2013 FROM THE AGRICULTURAL OFFICER, KRISHI BHAVAN KOZHIKODE ALONG WITH ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 11979 of 2015 (V)

Dated this the 9th day of April, 2015.

JUDGMENT

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent Corporation, 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, desirous of constructing a commercial building in the place of an existing residential building, the petitioners are said to have submitted Ext.P5 application for building permit. Ventilating their grievance that Ext.P5 application has so far not been considered by the respondent Corporation, the petitioners have filed the present writ petition.

3. The learned Standing Counsel for the respondent Corporation has submitted that the revenue records reflect the property as 'nilam'. According to him, unless there are appropriate orders from the authority either under the Kerala Land Utilisation Order or under the Kerala Conservation of Paddy Land and Wet Land

Act, 2008, the respondent Corporation cannot proceed further.

4. Be that as it may, the fact remains that the petitioners have submitted Ext.P5 application for building permit; so far, it has not been decided. It meets the ends of justice, if the respondent Corporation considers the application in reference to the extant statutory position and passes appropriate orders thereon.

In the facts and circumstances, having regard to the respective submissions of the learned Counsel for the petitioners and the learned Standing Counsel, this Court, without expressing any opinion on the merits of the matter, disposes of the writ petition with a direction to the 2nd respondent to consider the petitioners' Ext.P5 application in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

sd/- DAMA SESHADRI NAIDU, JUDGE.

