

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12305 of 2015 (K)

PETITIONERS:

1. SRI.GEORGEKUTTY KUNJERIA, OXFORD
SYMPHONY APARTMENT, KALAVATH
CROSS ROAD, PALARIVATTOM, KOCHI - 25.
2. SMT.ROSLIN GEORGE KUNJERIA,
W/O GEORGEKUTTY KUNJERIA, DO.

BOTH ARE REP. BY THEIR POWER OF ATTORNEY
HOLDER, RAMESHLAL NARAINDAS CHAWLA,
S/I NARAINDAS MOOLCHAND CHAWLA, 6C,
SKYLINE OAKWOOD APARTMENT,
JAWAHAR NAGAR, KADAVANTHRA, KOCHI-20.

BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)

RESPONDENTS:

1. THE CHIEF TOWN PLANNER, OFFICE OF THE
CHIEF TOWN PLANNER, DEPARTMENT OF URBAN
AND RURAL PLANNING, 2ND FLOOR, SWARAJ
BHAVAN, NANTHANKODE, KOWDIYAR P.O.,
THIRUVANANTHAPURAM - 695 003.
2. THE STATE OF KERALA REP. BY THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
3. THE SECRETARY, KOCHIN CORPORATION,
ERNAKULAM - 682 025.

R3 BY ADV. SRI.E.D.GEORGE
SRI.P.K.SOYUZ

R1 & R2 BY GOVT. PLEADER SMT.K.A.SANJEETHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 12305/2015

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF BUILDING PERMIT NO.306/06 DATED 21.4.2006
ISSUED BY THE COCHIN CORPORATION

EXT. P2 TRUE COPY OF ORDER EXTENDING THE TIME OF BUILDING PERMIT

EXT. P3 TRUE COPY OF ORDER DATED 18.5.2012 PASSED BY THE
ADDITIONAL SECRETARY TO CORPORATION OF KOCHI

EXT. P4 TRUE COPY OF REPORT DATED 20.11.2012 SUBMITTED BY THE
SECRETARY, CORPORATION OF COCHIN

EXT. P5 TRUE COPY OF APPLICATION FOR REGULARISATION DATED
8.5.2014 SUBMITTED BY THE PETITIONER

EXT. P6 TRUE COPY OF DETAILED REPORT SUBMITTED BY THE ADDITIONAL
SECRETARY, CORPORATION OF COCHIN

RESPONDENT'S EXHIBITS:

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.12305 of 2015 K

Dated this the 10th day of April, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader for respondents 1 and 2, as well as the learned Standing Counsel for the third respondent, 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, having been granted Exhibit P1 building permit, the petitioners constructed a multi-storied residential apartment. Though the construction was completed in 2012, the respondent Corporation through Exhibit P3 notified certain defects required to be cured by the petitioners. In the meanwhile, the Government of Kerala has brought out Kerala Municipality Building (Regularisation

of Unauthorised Construction) Rules, 2014, through Government Order dated 14.02.2014, providing rules for regularisation beyond what has already been permissible under the Kerala Municipality Building Rules. Though it is the initial contention of the petitioners that they did cure the defects pointed out by the respondent Corporation, eventually, desirous of taking advantage of the amnesty scheme introduced by the Government through the Rules of 2014, they submitted Exhibit P5 application to the first respondent, through the third respondent. It appears that the third respondent has recommended for favourable consideration in statutory terms. Ventilating their grievance that so far the first respondent has not considered Exhibit P5 and forwarded it to the second respondent, the petitioners have approached this Court.

3. The learned Government Pleader has submitted that if Exhibit P5 application has been routed through the

third respondent and is pending before the first respondent, he does not have any objection to consider it and forward it to the second respondent for further action.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Government Pleader, as well as the learned Standing Counsel, this Court, without adverting to the merits of the matter, disposes of the writ petition with a direction to the first respondent to consider Exhibit P5 application of the petitioner and forward the same to the Government for further action within the statutorily permissible time. Once it reaches the second respondent, the second respondent shall consider the same and take appropriate decision within two months thereafter.

Dama Seshadri Naidu, Judge

tkv