

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).No. 12546 of 2015 (P)

PETITIONER :

**JOSEPH VATTAMATTOM, AGED 51 YEARS,
S/O.K.J.VARKEY, VATTAMATTOM HOUSE,
CHENGAMANADU VILLAGE, ALUVA TALUK, ERNAKULAM
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
JOSE C.L., S/O.LONAPPAN, CHAKKALAMATTATHU HOUSE,
NALUKETTU P.O., KORATTY, KEEZHAKKUMURI VILLAGE,
THRISSUR DISTRICT.**

**BY ADVS.SRI.S.RANJIT (KOTTAYAM)
SRI.GOKUL DAS V.V.H.**

RESPONDENTS :

- 1. SECRETARY, CHENGAMANAD GRAMA PANCHAYATH
PUTHUVASSERRY, NEDUMBASSERRY P.O., ERNAKULAM
PIN-683585.**
- 2. CHENGAMANAD GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY,
CHENGAMANAD GRAMA PANCHAYATH, PUTHUVASSERRY,
NEDUMBASSERRY P.O., ERNAKULAM, PIN-683585.**
- 3. KADER PILLA
S/O.MEETHIAN, CHOLLAMBATTU HOUSE, MEETHANAM KARA,
ALANGAD VILLAGE, PARAVUR TALUK, ERNAKULAM DISTRICT
PIN-683511.**
- 4. FATHEEMA
D/O.T.O.ABDULLA, THARAKANDATHIL HOUSE, ERUMATHALA KARA,
ALUVA EAST VILLAGE, ALUVA TALUK, ERNAKULAM DISTRICT
PIN-683101.**
- 5. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN-695001.**

**BY SRI.ANIL K.MUHAMED, SC, CHENGAMANAD GRAMA PANCHAYA
R5 BY GOVERNMENT PLEADER SRI. SHYSON P. MANGUZHA.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY F THE BUILDING PERMIT DT 6/2/2013 BEARING 15/2012-13 ISSUED BY THE R1.

P2: COPY OF THE REPRESENTATION DT 22/10/2013 SUBMITTED BY THE PETITIONER.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 12546 of 2015

Dated this the 8th day of June, 2015.

JUDGMENT

Alleging that the first respondent has not passed any orders on Ext.P2 representation against the alleged illegal construction of a high rise building by respondents 3 and 4, the petitioner has come up before this Court.

2. During October 2013, the petitioner found that respondents 3 and 4 had illegally obtained Ext.P1 permit for the construction of a building by misrepresentation of materials facts. The respondents 3 and 4 while submitting the proposed plan, have shown the southern side as National Highway and thereby caused an impression that access to the apartment is possible directly from the National Highway. They had also shown the aforementioned 3 metres wide private pathway leading to the petitioner's property as a boundary mark without providing any access from that point. It is further alleged that the southern National Highway is at a

height of about five metres above the ground level. On the southern boundary of the plot, there is the retaining wall of the national highway constructed by the National Highway Authorities of India. It is having a height of around five metres. Hence the direct access to the apartment complex is not at all possible from the National Highway. The minimum width of road required for obtaining building permit for a multi storied high rise building is 8 metres wide pathway as stipulated under Rule 37 of the Kerala Panchayat Building Rules, 2011. In order to bypass this provision, respondents 3 and 4 had shown in their plan direct access from the southern National Highway without showing the height difference.

3. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Panchayath.

As the main grievance projected in the writ petition is that Ext.P2 representation has not been considered, the writ petition is disposed of directing the respondent panchayath to

consider and pass appropriate orders on Ext.P2 representation, after affording the petitioner an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment. To facilitate an early action, it shall be open to the petitioner to produce a copy of the writ petition as well as the copy of this judgment before the respondent panchayath at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.