

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).NO. 16538 OF 2012 (N)

PETITIONER:

MUHAMMED RAFI, AGED 43 YEARS,
S/O. CHELLA RAWTHAR, MUDAPALLOOR,
VANDAZHIPALAKKAD DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

- 1.THE ELAVANCHERY GRAMA PANCHAYATH,
LAVANCHERY P.O.,
PALAKKAD DISTRICT REPRESENTED BY THE SECRETARY,
PIN-678 508.
2. THE SECRETARY,
ELAVANCHERY GRAMA PANCHAYATH,
ELAVANCHERY P.O.PALAKKAD DISTRICT, PIN-678 508.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

- EXHIBIT-P1 - TRUE COPY OF THE COMMUNICATION ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT DATED, 25-6-2012 AS NO.A2-4586/2012.
- EXHIBIT-P2 - TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE PETITIONER BY THE VILLAGE OFFICER, ELAVANCHERY VILLAGE DATED 7-9-2011.

RESPONDENTS' EXHIBITS:

- EXHIBIT R1 (A) : TRUE COPY OF THE ENTRY AT SERIAL NO. 7 IN THE REGISTER MAINTAINED BY THE ELAVANCHERY GRAMA PANCHAYAT.
- EXHIBIT R1 (B) : TRUE COPY OF THE FINDINGS ENTERED BY THE COMMITTEE COMPRISING THE AGRICULTURAL OFFICER, VILLAGE OFFICER AND THE PANCHAYAT SECRETARY.
- EXHIBIT R1 (C) : TRUE COPY OF THE DECISION NO. 4 DATED 25.5.2012 OF THE COMMITTEE.
- EXHIBIT R1 (D) : TRUE COPY OF THE PHOTOCOPY OF THE AREA OF THE PETITIONER

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No.16538 of 2012

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Dated this the 11th day of November, 2015

J U D G M E N T

The Petitioner is aggrieved by the refusal of building permit, which was sought for the construction of a building in his property, having an extent of only 5 cents, by Ext.P3 order. Going by Ext.P3 order, it is seen that the application, for building permit has been denied on the ground that the property in which, the building was sought to be constructed, is a paddy land left uncultivated as fallow land. Going by Section 14 of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (*hereinafter referred to as 'the Act'*), there is a clear prohibition that no Local Authority shall grant any licence or permit under the said Act, for carrying out any activity or construction in a paddy land or wet land converted or reclaimed in contravention of the

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provisions of this Act. In the instant case, the case of the respondent is that on receipt of the application, for building permit, the Secretary of the respondent Panchayat along with the Agricultural Officer and the Village Officer conducted a joint inspection of the property and it was revealed that the property lies as a paddy land left uncultivated, as fallow land only and the same can be cultivated invoking the provisions under the Act.

2. In the above view of the matter, the respondent is justified in issuing Ext.P3 order, refusing to grant building permit. But, considering the extent of land and the fact that the petitioner is having 5 cents only, the petitioner is at liberty to approach the Local Level Monitoring Committee under Section 5 of the Act, seeking permission to convert the said paddy land to garden land, for construction of a residential building, if

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he has no other property at all. In the above view of the matter, the petitioner is directed to approach the Local Level Monitoring Committee, for appropriate relief and if such an application is filed, the concerned Local Level Monitoring Committee shall dispose the application, after affording an opportunity of being heard, to the petitioner.

With the above observation, this Writ Petition stands disposed of accordingly.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge