

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).No. 13036 of 2015 (D)

PETITIONER:

**SUNITHA JAFFER,
VALIAYAPARAMBIL HOUSE, EDAYAKUNNAM,
SOUTH CHITTOOR P.O., ERNAKULAM.**

BY ADV. SRI.A.RAJASIMHAN

RESPONDENTS:

- 1. ALANGAD GRAMA PANCHAYAT,
NEERIKODE, ERNAKULAM-683 511,
REPRESENTED BY ITS SECRETARY.**
- 2. SENIOR TOWN PLANNER,
REGIONAL TOWN PLANNING OFFICE,
ERNAKULAM-682 018**
- 3. THE CHIEF TOWN PLANNER,
OFFICE OF THE CHIEF TOWN PLANNER,
2ND FLOOR SWARAJ BHAVAN, NANDANCODE,
KAVADIAR P.O., THIRUVANANTHAPURAM-695 003**

R2 & R3 BY GOVERNMENT PLEADER SRI.SHYSON P. MANGUZHA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 13036 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF THE APPLICATION**
- P2:- TRUE COPY OF THE RECEIPT DTD 7/3/2014**
- P3:- TRUE COPY OF THE APPROVAL DTD 21/3/2014**
- P4:- TRUE COPY OF LICENSE DTD 4/11/2014**
- P5:- TRUE COPY OF THE LETTER DTD 2/9/2014**
- P6:- TRUE COPY OF THE CERTIFICATE DTD 14/1/2015**
- P7:- TRUE COPY OF THE LETTER DTD 21/1/2015**
- P8:- TRUE COPY OF THE LETTER DTD 18/3/2015**
- P9:- TRUE COPY OF THE LETTER DTD 27/3/2015**
- P10:- TRUE COPY OF THE GO(RT)NO.1592/2014 LSGD DTD 23/6/2014**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.13036 of 2015

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Dated this the 9th day of June, 2015

JUDGMENT

Alleging that the 3rd respondent, the Chief Town Planner, has insisted for unnecessary requirements in spite of clearance from the PWD and the recommendation of the 1st respondent panchayat for granting building permit to the petitioner, the petitioner has come up before this Court.

2. The petitioner alleged that she is the widow of a Jawan and is a LPG distributor of Indian Oil Corporation. She is functioning the agency in a rented premises. For constructing a new godown, she submitted Ext.P1 application for building permit. The petitioner points out that Exts.P3 and P4 are the explosive approval and licence.

3. The petitioner further alleges that though as per Rule 61(1) of the Kerala Panchayat Building Rules, 2011, the approval of the District Town Planner alone is necessary for building upto 1000 sq.

metres, the 2nd respondent forwarded her application to the 3rd respondent and by Ext.P5 he insisted for 7 metre street roads from all directions to the plot. According to the petitioner, as per Rule 61(4), the requirement is 3 metres road and the same is repeated in Ext.P10 government order also. The grievance of the petitioner is that even after Ext.P6 certificate from the PWD that the roads have 7 metre width and the recommendation of the 1st respondent, the 3rd respondent is still insisting for unnecessary requirements. Hence, this writ petition.

4. Though notice has been served on the respondents, they have not filed any counter.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader in the matter.

6. The petitioner is aggrieved by Exts.P5 and P8 rejections. The area of the proposed construction is only 105.64 sq. metres. As per Section 61(4) of the Kerala Panchayat Building rules, 2011, the

required width of the street road leading to the plot is only 3 metres. The petitioner points out that on either side there are two roads leading to the plot with 7 metres width. This is not disputed by the respondents. Going by Section 61(1) of the aforesaid Rules, the approval of the 3rd respondent is not at all required in the matter.

7. In fact, the 2nd respondent has committed an error in forwarding the same to the 3rd respondent. The 2nd respondent have overlooked all statutory provisions in the matter and it evidences the carelessness with which the respondents 2 and 3 are processing the applications of the citizens. Overlooking the statutory provisions, the 2nd respondent had forwarded Ext.P1 application and the plan to the 3rd respondent for approval. Ext.P6 certificate issued by the Assistant Engineer, PWD Roads Section, North Paravur says that the road leading to the petitioner's plot was having a width of 7 metres.

8. The petitioner at present is functioning the LPG agency in a leased premises paying huge rent. The consent to operate issued by

IOC as well as the Petroleum and Explosive Safety Organisation is produced and marked as Exts.P3 and P4.

As there is no legal impediment in granting the building permit to the petitioner, the writ petition is disposed of quashing Ext.P5 and P8 and directing the 2nd respondent to issue formal orders granting approval. The 1st respondent is also directed to issue permit on Ext.P1 application within a period of two weeks from the date of receipt of a copy of this judgment.

To facilitate early action, it shall be open to the petitioner to produce a copy of this judgment and a copy of the writ petition before the respondent concerned at the earliest.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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