

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 14927 of 2015 (M)

PETITIONER(S):

**DEVU, AGED 69 YEARS
W/O.VELAYUDHAN, KARUKODI, VADAKKANTHARA
PALAKKAD**

**BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA**

RESPONDENTS:

- 1. THE PALAKKAD MUNICIPALITY
PREPRESENTED BY ITS SECRETARY, MuNICIPAL OFFICE
PALAKKAD - 678101**
- 2. THE SECRTARY
PALAKKAD MUNICIPALITY, PALAKKAD - 678101.**
- 3. DISTRICT TOWN PLANNER
OFFICE OF THE DISTRICT TOWN PLANNER, PALAKKAD 678101**

**R1-R2 BY ADV. SRI.T.C.SURESH MENON
R1-R2 BY ADV. SRI.P.S.APPU
BY GOVERNMENT PLEADER SMT. S. HYMA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF DOCUMENT NO 4152/2010 OF S R O PALAKKAD
- P2:- TRUE COPY OF THE POSSESSION CERTIFICATE IN RESPECT OF THE PETITIONER'S PORPERTY
- P3:- TRUE COPY OF THE LAND TAX RECEIPT
- P4:- TRUE COPY OF THE ORDER NO BA/287/14-15/PW4 DTD NIL
- P5:- TRUE COPY OF THE JUDGMENT DTD 10/7/2014 IN WPC NO 13042/2014

RESPONDENT(S)' EXHIBITS: NIL

//True copy//

P.A. to Judge

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P.BHAVADASAN, J.

W.P.(C) No.14927 of 2015

Dated this the 28th day of September, 2015

J U D G M E N T

Under challenge is Ext.P4 order whereby, the application for putting up a structure has been rejected on the ground that the coverage area could be 50% only.

2. The petitioner acquired 1.65 cents of dry land in Re-survey No.38/1 in Block No.1 in Ward No.1 of Palakkad -I Village in Palakkad Taluk. She wanted to put up a residential structure having a plinth area of 465 sq.ft. and she therefore made an application as early as on 16.07.2014. She claims that the application was strictly in accordance with the building rules. However, quiet contrary to the expectation of the petitioner, her application was rejected by Ext.P4 order pointing out that petitioner's building is having a coverage area of more than 50%. The petitioner points out that the said reason cannot be a ground to reject her application and relies on Ext.P5 judgment of

this Court wherein, an identical question was considered. This Court had occasion to hold that such restrictions are not sufficient to reject an application for putting up a structure by the persons concerned who own property and who are entitled to enjoy the property in accordance with law.

3. After having heard the learned counsel on both sides and after having perused the judgment of this Court as is evidenced by Ext.P5, there is no reason as to why the impugned order should not be set aside.

In the result, this petition is allowed. The impugned order is set aside and the second respondent is directed to reconsider the application of the petitioner in accordance with the decisions rendered by this Court in W.P.(C) No.13042/2014 dated 10.07.2014 and in accordance with law, within a period of 15 days from the date of receipt of a copy of this judgment.

**P.BHAVADASAN
JUDGE**

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