

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No.15044 of 2015 (E)

PETITIONER'S:

1. **V.P.FRABHAKARAN,S/O.NARAYANAN,
AGED 56 YEARS,PARAPRATH HOUSE,
P.O.PONNIAM WEST,KANNUR DISTRICT.**
2. **JINI CHILLINTAVIDA,D/O.RAGHAVAN,
AGED 38 YEARS,SREE RAGAM,
P.O.PERUMTHATTIL,KANNUR DISTRICT,
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
RAGHAVAN.T.K,AGED 68,S/O.PYTHAL NAIR,
SREE RAGAM,P.O.PERUMTHATTIL,KANNUR DISTRICT.**
3. **HAREESH.E.M,AGED 61 YEARS,
S/O.GOVINDAN,CHYTHANYA,P.O.MAMBRAM,
KANNURDISTRICT,REPRESENTED BY THE POWER OF ATTORNEY
HOLDER HEERA HAREESH KAKKARIKKAN,
D/O.KRISHNAN,CHYTHANYA,P.O.MAMBRAM KANNUR DISTRICT.**

BY ADV.SRI.P.NARAYANAN

RESPONDENT'S:

1. **THALASSERY MUNICIPALITY,
REPRESENTED BY ITS SECRETARY.**
2. **THE SECRETARY,THALASSERY MUNICIPALITY.**
3. **THE EXECUTIVE ENGINEER,LOCAL SELF GOVERNMENT,
THALASSERY MUNICIPALITY,THALASSERY.**
4. **THE CHIEF TOWN PLANNER,
OFFICE OF THE CHIEF TOWN PLANNER,
DEPARTMENT OF TOWN AND COUNTRY PLANNING,
KOTTARATHIL BUILDINGS,PALAYAM,
THIRUVANANTHAPURAM - 695 033.**

R1 TO R3 BY SRI.I.V.PRAMOD,S.C.

SRI.K.V.SASIDHARAN,S.C.

R4 BY GOVT. PLEADER SRI.BIJU MEENATTOOR.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1- COPY OF THE BUILDING PLAN SUBMITTED BY THE PETITIONERS.**
- P2- COPY OF THE COMMUNICATION NO.E5/BA/81/14-15 DATED 24.2.2015
ISSUED BY THE 3RD RESPONDENT.**
- P3- COPY OF HTE JUDGMENT DATED 23.1.2013 IN WP.1336/2013.**
- P4- COPY OF THE JUDGMENT IN DATED 23.1.2007 W.A.NO.80/2007.**
- P5- COPY OF THE JUDGMENT IN WP.21974/2013 DATED 9/7/2014.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

K. VINOD CHANDRAN, J.
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Dated this the 3rd day of July, 2015

J U D G M E N T

The petitioner is aggrieved by the fact that the building permit applied for by the petitioner has rejected by the 2nd respondent for reason that there is a proposal for widening of the road. The issue is no longer res integra by virtue of a Division Bench decision of this Court reported in **Padmini v. State of Kerala [1999 (3) KLT 465]**, wherein it was held that no building permit can be refused to any person because there is a proposal to acquire the land in future. Reliance was also placed to the decision of the Apex Court in **Raju S. Jethmalani v. State of Maharashtra [(2005) 11 SCC 222]** wherein it was held that refusing to grant permits relying on obsolete DTP schemes

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is a clear violation of the provisions of the Constitution.

2. In such circumstance, this Court is of the view that the petitioners are entitled to get the reliefs as prayed for. The writ petition is allowed. Ext.P2 is quashed and the 2nd respondent Municipality is directed to reconsider petitioner's application for building permit de hors Ext.P2, within a period of two months from the date of receipt of a certified copy of this judgment.

The writ petition is allowed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.