

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

WP(C).No. 15241 of 2015 (E)

PETITIONER :

**USHA SURENDRAN, AGED 51 YEARS,
RESIDING AT CHELATTU HUSE, MANNATHU LANE, THRISSUR**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU**

RESPONDENTS :

- 1. THRISSUR CORPORATION, REPRESENTED BY ITS
SECRETARY, CORPORATION OFFICE, THRISSUR - 680001**
- 2. THE ASSISTANT ENGINEER, THRISSUR CORPORATION
VILVATTOM ZONAL OFFICE, THRISSUR - 680001.**

**R1 TO R2 BY ADV. SRI.K.P.VIJAYAN
BY ADV. SRI.V.N.HARIDAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICE, VIYYUR DT 13/4/2015.**
- P2: COPY OF THE EXTRACT OF THE BASIC TAX REGISTER DT 7/10/2014.**
- P3: COPY OF THE TAX RECEIPT ISSUED IN RESPECT TO THE TAX PAID FOR THE EXISTING BUILDINGS DT 23/42/1996.**
- P4: COPY OF THE TAX RECEIPT DT 2/3/2013.**
- P5: COPY OF THE TAX RECEIPT DT 1/11/2014.**
- P6: COPY OF THE ORDER PASSED BY THE R2 DT 15/5/2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDG

bp

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 15241 of 2015

Dated this the 1st day of June, 2015

J U D G M E N T

Ext.P6, by which the petitioner's application for building permit was rejected, is under challenge.

2. The petitioner along with the Managing Director of a firm, by name, Forus Initiatives', are the owners of 0.1197 hectares of land comprised in R.S.No.18/59 of Viyyur Village in Thrissur Taluk within the local limits of the 1st respondent corporation. The petitioner submitted an application seeking permit for constructing a residential apartment complex, which was rejected by the respondent corporation vide Ext.P6, stating that the land owned by the petitioner has been included in the paddy zone according to the master plan. The petitioner alleges that there is no acquisition proceedings initiated in respect to the said land and in the adjacent properties, the corporation has already given

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building permits to construct various buildings. According to the petitioner, the rejection of the application for building permit is in total disregard to the settled principles of law. It is with this background, the petitioner has approached this Court.

3. Arguments have been heard.

4. The learned counsel for the petitioner invited my attention to a Division Bench decision of this Court 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 is a clear violation of the provisions of the Constitution. Viewed in that profile, this Court is of the view that the petitioner is entitled to get the reliefs prayed for.

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Therefore, the writ petition is allowed.

Ext.P6 is quashed and the respondent corporation is directed to reconsider petitioner's application for building permit within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-