

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 15674 of 2015 (H)

PETITIONER :

**MURALIYA HOTELS AND RESORTSS PRIVATE LIMITED,
A COMPANY INCORPORATED UNDER THE INDIAN COMPANIES
ACT 1956 AS AMENDED IN THE YEAR 2013
HAVING ITS REGISTERED OFFICE AT SPACE I, LEVEL 5
3RD FLOOR, TRANSTOWER, VAZHUTHACAUD,
THIRUVANANTHAPURAM, REPRESENTED BY ITS
CORPORATE DIRECTOR R.JALARAM, AGED 59 YEARS**

**BY ADVS.SRI.SREELAL N.WARRIER
SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH**

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO
LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIATE, THIRUVANANTHAPURAM 695001**
- 2. CORPORATION OF THRIVANANTHAPURAM
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE MUSEUM,
THIRUVANANTHAPURAM 695001**

**R1 BY GOVERNMENT PLEADER SRI. SHYSON P. MANGUZHA
R2 BY SRI.P.K.MANOJKUMAR,SC,**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: BUILDING PERMIT NO. BA 296/05 ISSUED BY THE 2ND RESPONDENTS CORPORATION OF THIRUVANANTHAPURAM FOR 3 YEARS EFFECTIVE FROM 18.10.2005 TIL 17.10.2008
- P2: CERTIFICATE NO. E10/8241/09 IN E10/BA /296/05 ISSUED BY THE CORPORATION OF THIRUVANANTHAPURAM FOR 3 YEARS EFFECTIVE FROM 22.10.2009 TILL 21.10.2012
- P3: CERTIFICATE NO. E10/89868/14 IN E10/BA /296/05 ISSUED BY THE CORPORATION OF THIRUVANANTHAPURAM FOR 3 YEARS EFFECTIVE FROM 22.10.2012 TILL 21.10.2012
- P4: MEMORANDUM OF APPEAL IN APPEAL NO.312/2015 FILED BY THE PETITIONER 26.03.2015.
- P5: APPLICATION FOR CONDONATION OF DELAY IN APPEAL NO.312/2015 ISSUED BY THE PETITIONER

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 15674 of 2015

Dated this the 5th day of June, 2015

J U D G M E N T

The petitioner has approached this Court for a direction clarifying that the extension of validity period of renewed Ext.P3 building permit is only prospective from the date of issue.

2. The petitioner is a company incorporated under the Companies Act, 1956 (as amended in the year 2013) engaged in the business of hotels and resorts by name and style, "Muraliya Hotels and Resorts Private Limited". The petitioner applied for further renewal and extension of the permit under Section 15A of the Kerala Municipality Building Rules vide application dated 21.09.2012. The petitioner alleges that as per Rule 14 of the Kerala Municipality Building Rules, the Secretary is bound to take a decision within 30 days from the date of receipt of the application. The petitioner points out that the order of extension was issued only on 04.02.2015 though the

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application has been given as early as on 21.09.2012 itself. The petitioner could not carry out any work from 21.09.2012 till 04.02.2015, fearing illegality in construction without a valid permit in hand. The effective validity as per Ext.P3 is only eight months instead of 36 months (3 years) for no fault of the petitioner. It is with this background, the petitioner has come up before this Court.

3. Heard the learned counsel for the petitioner and the learned senior counsel for the respondent corporation.

4. The learned senior counsel would point out that the petitioner has approached the Tribunal for Local Self Government Institutions with an appeal under Section 509 of the Kerala Municipality Act, 1994 read with Rule 8 of the Tribunal for Local Self Government Institutions Rules, which is pending consideration of the learned Tribunal. The averments in the writ petition would indicate the pendency of such an appeal with next posting on 19.06.2015. However, the learned counsel for the petitioner would submit and undertake that he would not

pursue Ext.P4 appeal.

5. If the renewed Ext.P3 building permit is allowed to stand from the date of issue, i.e., with retrospective effect, the same would expire on 21.10.2015. But, it has to be borne in mind that during the pendency of the application as early as on 21.09.2012, the petitioner did not carry out any work awaiting permit. Therefore, it may not be proper to reckon the period of renewed permit with effect from the date of application.

In the result, the writ petition is disposed of clarifying that the period of validity of renewed Ext.P3 building permit shall be prospective, i.e., with effect from the date of issue of the same. The 2nd respondent is directed to rectify the error and reissue the renewal certificate correcting the error in Ext.P3 certificate without any delay.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-