

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. 16052 of 2015 (F)

PETITIONER : -

FATHIMA PAREED, AGED 58 YEARS,
W/O.T.O.PAREED, THEKKEKUDY HOUSE,
RAYON PURAM P.O., PERUMBAVOOR,
ERNAKULAM DISTRICT, KERALA, PIN-683 543.

BY ADVS.SRI.P.A.MOHAMMED SHAH
SRI.SOORAJ T.ELENJICKAL
SMT.PM.MAZNA MANSOOR

RESPONDENTS : -

1. THE MUNICIPALITY OF PERUMBAVOOR,
REPRESENTED BY SECRETARY,
PERUMBAVOOR MUNICIPALITY,
PERUMBAVOOR, ERNAKULAM DISTRICT, PIN - 683 543.
2. THE SECRETARY,
PERUMBAVOOR MUNICIPALITY,
PERUMBAVOOR, ERNAKULAM DISTRICT, PIN.683 543.
3. ASSISTANT EXECUTIVE ENGINEER,
PERUMBAVOOR MUNICIPALITY, PERUMBAVOOR,
ERNAKULAM DISTRICT, PIN - 683 543.

BY ADV.SRI.V.MKURIAN, SC FOR PERUMBAVOOR MUNICIPALITY

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

WP(C).No. 16052 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE TAX RECEIPT ISSUED TO THE PETITIONER
DATED 04.06.2013.

EXHIBIT P2 : TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE
PETITIONER DATED 21.02.2015.

EXHIBIT P3 : TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER
DATED 21.03.2015.

EXHIBIT P4 : TRUE COPY OF THE NOTICE ISSUED BY THE ASSISTANT
EXECUTIVE ENGINEER, PERUMBAVOOR MUNICIPALITY DATED
23.03.2015.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

A.V. RAMAKRISHNA PILLAI,J.

W.P.(c) No. 16052 of 2015

Dated this the 09th day of June, 2015

JUDGMENT

Exhibit P4, by which the petitioner's application for building permit was rejected, is under challenge.

2. The petitioner is the title holder of 06.07 Ares of property situated in Sy. No.192/2 of Chelamattom Village within the local limits of the respondent municipality. The petitioner submitted an application seeking permit for constructing a commercial building, which was rejected by Exhibit P4 stating that the proposed construction comes within the residential zone as per the Master Plan of Perumbavoor Municipality. According to the petitioner, the application was rejected based on the unimplemented proposal in the Master Plan without taking any step for actual acquisition of land. 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.

Therefore, the writ petition is allowed.

Exhibit P4 is quashed and the respondent Municipality 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.

A.V. RAMAKRISHNA PILLAI
JUDGE

DMR/-