

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 16264 of 2015 (G)

PETITIONER(S) :

**SHAHID HASSAN,
4/369, MASTER AVENUE STREET, EAST FORT, THRISSUR,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
MUJEEB RAHIMAN, AGED 44 YEARS,
S/O.IBRAHIM KUTTY, PUTHANPURAKKAL, PAVITTAMPPURAM,
P.O.OHALUR WEST, PONNANI TALUK, MALAPPURAM DISTRICT.**

**BY SRI.P.K.SURESH KUMAR (SENIOR ADVOCATE)
ADV. SRI.K.P.SUDHEER**

RESPONDENT(S) :

**1. ATHIRAPPILLY GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, VETTELAPPARA P.O.,
THRISSUR DISTRICT, PIN - 680 721.**

*** ADDITIONAL R2 & R3 IMPLEADED**

**2. DISTRICT COLLECTOR,
THRISSUR - 680 001.**

**3. TAHSILDAR,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT, PIN - 680 125.**

*** ADDITIONAL R2 AND R3 ARE IMPLEADED AS PER ORDER DATED 12.06.2015
IN I.A.NO.7860 OF 2015.**

**R1 BY ADV. SRI.P.VISWANATHAN
ADDL.R2 & R3 BY GOVERNMENT PLEADER SRI.ANITHA RAVEENDARAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE SALE DEED REGISTERED AS DOC.
NO.5736/2013 DATED 18.12.2013 OF CHALAKKUDY SRO.**

**EXHIBIT P2: TRUE COPY OF LICENSE DATED 05.12.2013 ISSUED BY
THE RESPONDENT IN FAVOUR OF PREVIOUS OWNER OF
THE PROPERTY.**

**EXHIBIT P3: TRUE COPY OF ORDER NO.C3-1143/2015 DATED 14.05.2015
ISSUED BY THE RESPONDENT.**

**EXHIBIT P4: TRUE COPY OF ORDER DATED 15.06.1990 ISSUED BY
THE DISTRICT COLLECTOR, THRISSUR.**

RESPONDENT(S)' EXHIBITS :

**EXHIBIT R1(A): THE TRUE PHOTOSTAT COPY OF THE REPORT
DATED 05.05.2015.**

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 16264 of 2015

Dated this the 13th day of July, 2015

J U D G M E N T

The petitioner has come up before this Court on account of the rejection of the petitioner's application for renovation of the building.

2. By Ext.P3 order, the respondent panchayath rejected the application of the petitioner for renovation and extension of an old building situated in Athirappilly. The reason stated for rejection is the existence of Ext.P4 order of the District Collector issued on 15.06.1990. The petitioner alleges that the area, in which constructions are prohibited by the Collector as per Ext.P4 order, is far away from the petitioner's place. The petitioner points out that the Collector himself has clearly described the area, where restrictive orders are to operate. The petitioner alleges that the panchayath has misunderstood the scope of Ext.P4 order and rejected the application of

the petitioner. Hence, this writ petition.

3. A statement has been filed by the 1st respondent, in which it is stated that as per Ext.R1(a) report, the request made by the petitioner is to execute extension of work of the existing building in the property having an extent of 72.350 cents comprised in Sy.No.1675/5, Athirappilly Village. It is further stated that as per Ext.P4 order, there is restriction of construction activities in the properties comprised in Sy.Nos.1673 to 1675 of Athirappilly Village.

4. Arguments have been heard.

5. The learned counsel for the petitioner, inviting my attention to Clause 4 of Ext.P4, submitted that what is prohibited is the construction on the eastern side of the point, from where the waterfall is seen by the public in a semi circle portion of the road covered by fence.

6. The learned counsel for the respondent panchayath would submit that the entire complication arose on account of the entry in the Engineer's report

including the areas in Sy.Nos.1673 to 1675.

7. It is pointed out by the learned counsel for the petitioner that his property does not come within the prohibited area covered by Clause 4 of Ext.P4.

Considering the facts and circumstance of the case, this Court is of the view that the petitioner is entitled to get the relief as prayed for.

Therefore, the writ petition is disposed of as follows;

- Ext.P3 is quashed.
- The respondent panchayath is directed to reconsider the issue in the light of what has been stated above and to grant permit to the petitioner if the application is otherwise in order, which shall be done within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-