

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

WP(C).No. 16485 of 2015 (I)

PETITIONER(S):

**SUNIL P.K., AGED 50 YEARS,
SON OF KUMARAN, PONNRASSERY HOUSE,
KANIAPPAYYOOOR POST, KUNNAMKULAM.**

**BY ADVS.SRI.SANTHEEP ANKARATH
SRI.YJAFAR KHAN**

RESPONDENT(S):

**KUNNAMKULAM MUNICIPALITY,
KUNNAMKULAM, REPRESENTED BY ITS SECRETARY,
PIN-680 503.**

BY ADV. SRI.RAJIT, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 16485 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- TRUE COY OF ORDER NO. BA NO. 214/14-15 DATED 18-09-2014 ISSUED
BY THE RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.16485 of 2015

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Dated this the 3rd day of June, 2015

JUDGMENT

Ext.P1 by which petitioner's application for building permit was rejected is under challenge.

2. The petitioner is the owner in respect of 24.59 cents of land within the local limits of respondent Municipality. The petitioner applied for a permit to construct an educational building which was rejected by the respondent for the reason that the building proposed to be constructed is in a zone earmarked for residential buildings. The petitioner alleges that on enquiry he came to understand that the so called DTP scheme is no longer valid and several buildings have been constructed. It is with this background, the petitioners have approached this Court.

3. I have heard the learned counsel for the petitioner and the learned standing counsel for the respondent Municipality.

4. It was pointed out by the learned counsel for the petitioner that the DTP Scheme made mention of in Ext.P1 is obsolete and it has not been implemented. In this Connection, the learned counsel 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.

5. Reliance was also placed to the decision of the Apex court in **Raju S. Jethmalani v. State of Maharastra** [(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.

6. 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. Ext.P1 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, after affording the petitioner an opportunity of being heard and grant permit in the light of what has been stated above if the application is otherwise in order.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj