

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No. 16679 of 2015 (H)

PETITIONER :

**MUHAMMED UNNI HAJI,
PRESIDENT, VADHI MARVA ISLAMIC CENTER,
N.AYIROOR, MALAPPURAM-679 580.**

**BY ADVS.SRI.P.K.IBRAHIM
SMT.K.P.AMBIKA
SMT.A.A.SHIBI**

RESPONDENT :

**PERUMBADAPPU GRAMA PANCHAYAT,
PERUMABADAPPU, MALAPPURAM DIST, PIN-679 580,
REPRESENTED BY ITS SECRETARY.**

**BY ADV. SRI.C.M.MOHAMMED IQUABAL
SMT.ANJALI G.KRISHNAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 16679 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : TRUE COPY OF THE TITLE DEED DATED 3-1-2004 OF THE PROPERTY.**
- P2 : TRUE COPY OF PHOTOGRAPHS OF THE LAND AND BUILDING.**
- P3 : TRUE COPY OF THE SITE PLAN AND THE BUILDING PLAN.**
- P4 : TRUE COPY OF THE ORDER DATED 11-3-2015 ISSUED BY THE TAHASILDAR, PONNANI ASSESSING THE BUILDING UNDER KERALA BUILDING TAX ACT.**
- P5 : TRUE COPY OF REPRESENTATION DATED 18-8-2014.**
- P6 : TRUE COPY OF THE CIRCULAR ISSUED BY THE GOVERNMENT DATED 22-1-2011.**
- P7 : TRUE COPY OF THE EXTRACT OF THE ENTRY IN THE DATA BANK.**
- P8 ; TRUE COPY OF THE ORDER DATED 16-4-2015 REFUSING TO NUMBER THE BUILDING.**

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.S.TO JUDGE

sts

A.V.RAMAKRISHNA PILLAI, J

WPC No.16679 of 2015

Dated this the 25th day of June, 2015

JUDGMENT

Under challenge in this writ petition is Ext.P8 order passed by the respondent Panchayat.

2. The petitioner alleges that he was moving from pillar to post for the last several years to get his building numbered. According to the petitioner, an extent of 5.51 cents of land comprised in Sy.No.183/1 of Perumbadappu Village, Ahiroor Amsham Desom was purchased in the name of the petitioner as President of Vadhi Marva Islamic Centre Trust vide Document No.121/2004 for and on its behalf. The said land was reclaimed by the previous owners long before its sale to the petitioner and was planted with coconut trees. The petitioner approached the Panchayat for numbering the building. However, the Panchayat raised an objection stating that the building cannot be numbered as it is constructed in a land described as nilam. Entry in the data bank in respect of the land wherein a building as per Ext.P3 plan is constructed has categorically mentioned the year of conversion of land as 1993.

The respondent issued orders rejecting the application for numbering the building stating that as per the records, it is wet land and that the building constructed by the petitioner is not a residential building. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. The learned counsel for the petitioner invited my attention to Ext.P2 photographs which show the lie of the petitioner's building and surrounded properties.

5. The decision of this Court in ***Mohammed Abdul Basheer C.P. v State of Kerala and another*** (2012(3) KLT 86) lays down the principle that the present position of the land has to be taken into consideration and on ascertaining these facts, permission can be granted.

6. It can be seen from Ext.P2 that the property is not a paddy land and it is having full of coconut trees. It is settled position that the applicant can choose the best land suited for construction of his house (***Sunil v Killimangalam-Panjai 5th Ward Nellulpadaka Samootham*** 2012(4) KLT 511). Only if there is cultivation presently then it will be considered as cultivating paddy land so as to attract the provisions of the Kerala Conservation of

Paddy Land and Wetland Act and Rules.

7. In ***Jalaja Dileep v Revenue Divisional Officer*** (2012(3) KLT 333) this Court observed that the description in the title deed or in revenue records will not be crucial if the property is reclaimed already. The aforesaid legal position settled by this Court escaped the attention of the authorities while rejecting the petitioner's application. Therefore, this writ petition is allowed. Ext.P8 is quashed.

Therefore, this writ petition is allowed. Ext.P8 is quashed. The respondent Panchayat is directed to number the building within a period of two months from the date of receipt of a copy of this judgment.

To facilitate an early action, it shall be open to the petitioner to produce a copy of this judgment as well as a copy of the writ petition before the respondent.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

CSS/

true copy

P.S.TO JUDGE