

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No. 16712 of 2015 (L)

PETITIONER :

**KALLIDUMBAN SUKUMARAN, AGED 62 YEARS,
S/O.LATE VELUKUTTY, KALLIDUMBIL HOUSE, MUNDUPARAMBU,
MALAPPURAM DISTRICT**

BY ADV. SRI.BABU S. NAIR

RESPONDENTS :

- 1. THE MALAPPURAM MUNICIPALITY
REPRESENTED BY ITS SECRETARY, MALAPPURAM, PIN-676 505.**
- 2. THE SECRETARY
MALAPPURAM MUNICIPALITY, MALAPPURAM DISTRICT
PIN-676 505.**

R1 & R2 BY SRI.ESM.KABEER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

WP(C).No. 16712 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : TRUE COPY OF THE COMMUNICATION ISSUED TO THE PETITIONER BY THE
2ND RESPONDENT DATED 14-5-2015.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J.

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W.P.(C) No.16712 of 2015 (L)

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Dated this the 8th day of July, 2015

JUDGMENT

Ext.P1, by which the petitioner's application for building permit was rejected by the respondent Municipality, is under challenge in this writ petition.

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

3.The learned counsel for the petitioner submits that, in Ext.P1 communication two grounds are projected. The first ground is that the area is a residential area as per the master plan. It was pointed out that the master plan, which was formulated more than 30 years back in the Malappuram Municipality, under the provisions of the Madras Town Planning Act, has never been implemented at all. It was also argued that in the

contiguous properties, commercial buildings have been constructed after the municipality issued building permits and at this point of time, the Municipality cannot take a stand that they are implementing an outdated master plan. The second reason stated in the communication is that there is a proposal for widening of an existing road. In this context the petitioner points out that there is no notification for the acquisition of properties for widening of the road.

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. 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 in the light of what has been stated above.

sd/-

A.V.RAMAKRISHNA PILLAI, JUDGE