

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

WP(C).No. 19523 of 2013 (M)

PETITIONER:

**T.S.PATTABHIRAMAN,
MANAGING DIRECTOR, M/S.KALYAN SILKS,
PALACE ROAD, THRISSUR.**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU
SRI.A.R.NIMOD
SRI.SANIL JOSE**

RESPONDENTS:

**1. THRISSUR CORPORATION,
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,
THRISSUR-680 001.**

**2. THE EXECUTIVE ENGINEER,
THRISSUR CORPORATION, CORPORATION OFFICE,
THRISSUR-680 001.**

*** ADDL.R3 IMPLEADED**

**3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695001.**

ADDL. R3 IS IMPLEADED AS PER ORDER DATED 30.10.2013 IN IA 14204/2013.

**R1,2 BY ADVS. SRI.K.P.VIJAYAN
SRI.V.M.SYAM KUMAR
SMT.KRIPA ELIZABETH MATHEWS
SRI.V.N.HARIDAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 TRUE COPY OF THE ORDER PASSED BY THE GOVERNMENT DATED 27.3.2000.**
- P2 TRUE COPY OF THE ORDER PASSED BY THE GOVERNMENT DATED 23.3.2001.**
- P3 TRUE COPY OF THE REQUEST MADE BY THE PETITIONER DATED 23.7.2013.**
- P4 TRUE COPY OF THE JUDGMENT IN WP(C)12073/2009 ON THE FILE OF THIS
HONOURABLE COURT DATED 24.6.2009**
- P5 TRUE COPY OF FEW PHOTOGRAPHS DEPICTING THE NATURE OF
COMMERCIAL ACTIVITY THAT IS PREVAILING DATED -NIL-**
- P6 TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT DATED
29.7.2013**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.19523 of 2013

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Dated this the 6th day of July, 2015

JUDGMENT

Aggrieved by Ext.P6 order refusing permission to convert the nature of use of the petitioner's premises to non-residential one by the respondents, the petitioner has come up before this Court.

2. The petitioner is the owner of a residential building situated in Sy. No.456/2P in Thrissur village and district. The petitioner alleges that the premises is used to provide accommodation to the staff of his business establishment, viz., M/s. Kalyan silks. According to the petitioner, the area in question has become a major commercial hub and it is no longer possible to accommodate its staff. The petitioner, therefore, rehabilitated his staff and put to use his building as annex showroom.

3. The petitioner further alleges that the respondent corporation, however, threatened him with coercive action if the building is used for non-residential purposes. He, therefore, sought conversion of the nature

of use of the building from residential to non-residential. The request has been turned down by the corporation relying on a Detailed Town Planning (DTP) Scheme. According to the petitioner, the DTP Scheme was never put to operation. It is with this background, the petitioner has approached this Court.

4. Respondents 1 and 2 have filed counter affidavit wherein they have contended the property of the petitioner is situated in the area earmarked as residential zone as per the DTP Scheme. Therefore, the petitioner's request for change in occupancy from residential to commercial cannot be permitted. It was stated that only a small portion of the palace road comes within the DTP Scheme. It was further contended that the DTP Scheme and the Master Plan were brought into force by the government and any changes or amendments to the scheme or master plan could only be made by the Government. Therefore, they justified the stand taken in Ext.P6 order.

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

6. It was pointed out by the learned counsel for the petitioner that DTP Scheme has never put to operation. The petitioner has produced Ext.P5 showing the present nature of the area. It can be seen from Ext.P5 that the area has become a commercial spot and many huge showrooms have come up therein.

7. 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. 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.

8. 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.P6 is quashed and the respondent corporation is directed to reconsider petitioner's

application for conversion of the nature of use from residential to non-residential one, in the light of what has been stated above *de hors* Ext.P6 within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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