

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 17163 of 2015 (U)

PETITIONER:

**ROBIN MATHEW
S/O.KUNJUMMEN MATHEW,
RESHMI KEECHERILMATTAKKAL
PARIYARAM, THURUTHIKKAD P.O.,
MALLAPPALLY.**

**BY ADVS.SRI.GEORGE CHERIAN (SR.)
SMT.K.S.SANTHI
SMT.LATHA SUSAN CHERIAN**

RESPONDENTS:

- 1. KALLOOPARA GRAMA PANCHAYATH
KALLOOPARA P.O., PATHANAMTHITTA,
PIN - 689 583
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY
KALLOOPARA GRAMA PANCHAYATH
KALLOOPARA P.O.
PATHANAMTHITTA,
PIN - 689 583.**
- 3. THE SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT (RA DEPARTMENT)
THIRUVANANTHAPURAM
PIN - 695 001.**

BY SR. GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 17163 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE PLAINT IN O.S.NO.46/05 OF MUNSIFF COURT, THIRUVALLA.**
- EXT.P-2: TRUE COPY OF THE LETTER DATED 14.2.06 ISSUED BY RDO.**
- EXT.P-3: TRUE COPY OF THE JUDGEMENT IN O.S.NO.46/05 OF MUNSIFF COURT, THIRUVALLA.**
- EXT.P-4: TRUE COPY OF THE COMMISSION REPORT DATED 24.2.05.**
- EXT.P-5: TRUE COPY OF THE DEMAND NOTICE ISSUED BY TAHSILDAR MALLAPPALLY**
- EXT.P-6: TRUE COPY OF THE LETTER DATED 24.12.11 SUBMITTED BY THE PETITIONER**
- EXT.P-6(a): TRUE COPY OF REPLY DATED 19.1.12 RECEIVED FROM THE 1ST RESPONDENT**
- EXT.P-7: TRUE COPY OF THE LETTER DATED 30.1.12 TO 3RD RESPONDENT**
- EXT.P-8: TRUE COPY OF THE LETTER DATED 29.2.12**
- EXT.P-9: TRUE COPY OF THE LETTER DATED 22.4.15 BY PETITIONER TO 1ST RESPONDENT**
- EXT.P-10: TRUE COPY OF THE LETTER DATED 18.5.15 BY 1ST RESPONDENT TO PETITIONER**

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 17163 OF 2015

Dated this the 09th day of November, 2015

JUDGMENT

Ext.P8 order rejecting the application put in by the petitioner for regularisation of unauthorised construction was passed behind the back of the petitioner. The order states that the application dated 15.02.2011 put in by the petitioner within six months of the Kerala Building (Regularisation of unauthorised construction) Rules, 2010 which came into effect on 21.08.2010 is barred by limitation. I fail to understand how such a conclusion could be arrived in the wake of Rule 3 of the Kerala Building (Regularisation of unauthorised construction) Rules, 2010 and without hearing the petitioner.

2. I direct the third respondent to reconsider the application dated 15.02.2011 put in by the petitioner for regularisation of unauthorised construction. The petitioner maintains that there is no infraction of the Kerala Panchayat Raj Act since there is sufficient set

back duly verified by the Town Planner. A further question as to whether the abutting road is a notified one which is vested in the Panchayat also looms large.

3. All these are questions to be dealt with by the third respondent after notice to the petitioner while disposing of the application for regularisation. Let final orders be passed thereon within a period of two months from the date of receipt of a copy of this judgment. I quash Ext. P8 order for this limited purpose and further proceedings for demolition shall also be kept in abeyance in the meanwhile.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS