

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYASHTA, 1937

WP(C).No.17322 of 2015 (M)

PETITIONER:

**BABU GEEVARGHESE,AGED 58 YEARS,
S/O.GEEVARGHESE,RESIDING AT
PLAVILA KIZHAKKETHIL PUTHEN VEEDU,
ALUMOODU P.O,KUNDARA,KOLLAM.**

BY ADV.SRI.SAJU J PANICKER

RESPONDENT'S:

- 1. THE ELAMPALLOOR GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
ELAMPALLOOR,KOLLAM-691 001.**
- 2. THE ASSISTANT ENGINEER,LSGD SECTION,
ELAMPALLOOR GRAMA PANCHAYAT,
ELAMPALLOOR,KOLLAM-691 001.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1- THE TRUE COPY OF THE LAWYER NOTICE DATED 12.3.2012 TO THE SECRETARY, ELAMPALLOR GRAMA PANCHAYAT.
- P2- THE TRUE COPY OF THE ORDER DATED 14.8.2012 OF THE 1ST RESPONDENT.
- P3- THE TRUE COPY OF THE REPLY NOTICE DATED 14.8.12 SENT BY THE 1ST RESPONDENT.
- P4- THE TRUE COPY OF THE JUDGMENT IN WPC 27592/2012.
- P5- THE TRUE COPY OF THE APPLICATION DATED 30.1.2013 FILED BY HTE PETITIONER.
- P6- THE TRUE COPY OF THE LETTER DATED 1.2.2013 ISSUED BY THE 1ST RESPONDENT.
- P7- THE TRUE COPY OF HTE PLAN SUBMITTED BY THE PETITIONER.
- P8- THE TRUE COPY OF THE JUDGMENT IN WPC 2297/14.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.17322 of 2015

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Dated this the 10th day of June, 2015

JUDGMENT

The petitioner wants Ext.P5 application submitted by him for building permit to be considered at the earliest by the first respondent.

2. The petitioner is the owner of 12.60 ares of property in Re.Sy. No.430/2/2 and 430/2/5 of Elampalloor village. The petitioner alleges that he has constructed two buildings in the said property after obtaining permit from the first respondent panchayat and there is considerable space between two buildings, and the said space is used as parking area. He decided to construct a roof over the vacant space in between the buildings for using the place as a shelter for those who visit the shops and for the vehicles parked in the parking area.

3. Initially, the petitioner filed application dated 30.7.2007 for building permit before the first respondent along with the required documents, which was rejected stating that the alleged construction would affect the free flow of air and sun light. Thereafter the

petitioner filed applications on 10.11.2011 and 16.7.2012 which were also rejected for the reason that the applications are entirely different. The petitioner further alleges that no opportunity was given to him to cure the defects. The third application was rejected directing him to submit a proper application by curing the defects. Hence he approached this Court with W.P(C) No.27592 of 2012 and this Court disposed of the same directing the petitioner to submit a fresh application in compliance with the requirements of the Kerala Panchayat Building Rules, 2011.

4. The petitioner filed Ext.P5 application and requested the first respondent to consider the same. However, the first respondent has not considered his application. Therefore, he was constrained to approach this court by W.P(C) No.2297 of 2014 seeking disposal of Ext.P1 which was disposed of directing the first respondent to consider and pass orders on the application within a period of one month from the date of receipt of a copy of the judgment. The petitioner alleges that even after that the petition has not been considered and it was kept pending for a long period. Hence, this writ petition.

5. Arguments have been heard.

6. Today when the matter came up for hearing, the learned counsel for the petitioner has confined his argument to the limited prayer for a direction to the respondents to consider and pass orders on Ext.P5 in a time frame.

Considering the nature of the submission, this Court is of the view that the writ petition can be disposed of even without issuing notice to the respondents. Therefore, the writ petition is disposed of with a direction to the respondents 1 and 2 to consider and pass orders on Ext.P5 after affording the petitioner an opportunity of being heard.

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

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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