

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

WP(C).No. 17449 of 2015 (E)

PETITIONER(S):

1. ALEXANDER VARKEY, AGED 66 YEARS,
SECRETARY, RAMANCHIRA RESIDENTS ASSOCIATION,
PARIPPALLIL HOUSE, R S P O, RAMANCHIRA,
THIRUVALLA. PIN CODE: 689 107.
2. SHAJI N KURUVILA, AGED 40 YEARS, AMPRAYIL HOUSE,
RS P O, THIRUVALLA - 689 111. PATHANAMTHITTA DISTRICT.
3. SAM JOHN, AGED 55 YEARS, CHELLETHU HOUSE,
RS P O, THIRUVALLA- 689 111. PATHANAMTHITTA DISTRICT.

**BY ADVS.SRI.VARUGHESE M EASO
SRI.VIVEK VARGHESE P.J.**

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO URBAN
DEVELOPMENT DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM - 695 001.
2. DISTRICT COLLECTOR, CIVIL STATION,
PATHANAMTHITTA P.O., PATHANAMTHITTA -689 645.
3. DISTRICT ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, MEKKAMKUNNU, NEAR CIVIL STATION,
PATHANAMTHITTA - 689 645.
4. THIRUVALLA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE,
THIRUVALLA -689 101.
5. THE TOWN PLANNER, A BLOCK 3RD FLOOR, MINI CIVIL STATION,
PATHANAMTHITTA - 689 645.
6. REGHUNATHAN, S/O.CHANDRASEKHARAN,
ASHWATHI BHAVAN, MUTHOOR P.O.,
THIRUVALLA - 689 107.

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7. **AJITH A.R.,
S/O.REGHUNATHAN, ASHWATHI BHAVAN,
MUTHOOR P.O., THIRUVALLA - 689 107.**

**R1,R2 & R5 BY GOVERNMENT PLEADER SMT. K.A.SANJEETHA
R3 BY SRI.M.R.ARUNKUMAR, SC, POLLUTION CONTROL BOARD
R4 BY ADV. SRI.S.SUBHASH CHAND, SC.THIRUVALLA MUNICIPALITY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF COMPLAINT DATED 31.12.2014 BY THE 1ST PETITIONER TO THE 3RD RESPONDENT
- EXT.P-2: TRUE COPY OF RECEIPT NO.331 ISSUED BY THE 3RD RESPONDENT
- EXT.P-3: TRUE COPY OF COMPLAINT DATED 31.12.2014 BY THE 3RD PETITIONER TO THE 2ND RESPONDENT
- EXT.P-4: TRUE COPY OF RECEIPT DT. 26/9/14 ISSUED BY THE 2ND RESPONDENT
- EXT.P-5: TRUE COPY OF THE AUTHORIZATION LETTER DT. 31.5.15 BY THE PRESIDENT OF THE RAMANCHIRA RESIDENTS ASSOCIATION.
- EXT.P-6: TRUE COPY OF THE REGISTRATION CERTIFICATE NO.PTM/TC/384/2014 DT. 29.12.2014
- EXT.P-7: TRUE COPY OF THE MEDICAL CERTIFICATE REF.NO.AIMS.PULMO 382175 DT. 29.4.2010 ISSUED BY DR.HARI LAKSHMANAN MBBS MD, AMRITA INSTITUTE OF MEDICAL SCIENCES AND RESEARCH CENTRE.
- EXT.P-8: TRUE COPY OF THE MEDICAL CERTIFICATE 1.6.2015 ISSUED BY DR.STEPHEN GEORGE, POYANIL HOSPITAL, KOZHENCHERRY.
- EXT.P-9: TRUE COPY OF THE MEDICAL CERTIFICATE DT. 1.6.2015 ISSUED BY DR.JOLLY S GEORGE BHMS, IMMANUEL HOMOEOPATHIC AND NAET CLINIC, THIRUVALLA.
- EXT.P-10: PHOTOGRAPH SHOWING PROPOSED LAND FOR THE WORK SHOP IN BETWEEN LOCAL RESIDENTIAL BUILDINGS OF THE PETITIONERS
- EXT.P-11: TRUE COPY OF THE JUDGEMENT DATED 26.7.2010 IN WPC 14280/2010 OF THIS HON'BLE COURT.
- EXT.P-12: TRUE COPY OF THE COMPLAINT DT. 4.6.15 BY THE PETITIONERS TO THE 4TH RESPONDENT
- EXT.P-13: TRUE COPY OF THE RECEIPT NO.13143 DT. 5.6.15 ISSUED BY THE 4TH RESPONDENT
- EXT.P-14: PHOTOGRAPH OF JCB ENGAGED FOR THE CONSTRUCTION OF WORK SHOP IN BETWEEN THE RESIDENTIAL BUILDINGS OF THE 2ND AND 3RD PETITIONERS.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

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P.A.TO JUDGE

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.17449 of 2015

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Dated this the 11th day of June, 2015

JUDGMENT

Alleging that a representation made by the petitioners to the authorities concerned did not yield any result and the respondents 6 and 7 are intending to install a workshop in the residential area where the petitioners are residing, the petitioners have come up before this Court.

2. The petitioners allege that they are residing in a thickly populated residential area surrounded by schools and other institutions. Respondents 6 and 7 are constructing a building to house an automobile workshop on the side of the said road without obtaining permission under Rules 58 and 56 of the Municipality Building Rules. Large scale excavation is also being done without obtaining permission from the Geologist and development permit from the municipality. If a workshop is established, it would cause health hazardous; it is alleged. According to the petitioners, the sites owned by respondents 6 and 7 are not suitable for such a workshop and the narrow road would not be able to handle the

traffic to the workshop.

3. In the year 2010, the first petitioner approached this Court and the proposed project was prevented by the statutory authorities. It is evident from Ext.P11 judgment that the petitioners have preferred several petitions before respondents 1 to 5. However, no information was received from them. The petitioners point out that Rule 58 mandates approval of the District Town Planner. They allege that no permission either from the municipality or District Town Planner as contemplated under the Rule was obtained. They filed representation. However, it could not evoke any positive response. It is with this background, the petitioners have come up before this Court.

4. I have heard the learned counsel for the petitioners, the learned standing counsel for the respondent municipality, the learned standing counsel for the Pollution Control Board, the 3rd respondent, and also the learned Government Pleader in the matter.

5. As the learned counsel for the petitioners has confined his argument to the limited prayer for a direction to the respondent municipality to consider the petitioners' representation, this Court is

of the view that the writ petition can be disposed of even without issuing notice to the party respondents.

Therefore, the writ petition is disposed of directing the respondent municipality to consider the representation submitted by the petitioners after affording them an opportunity of being heard before issuing any building permit to the party respondent, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

To facilitate early action it shall be open to the petitioners 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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/True Copy/
P.A to Judge