

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WP(C).No.17803 of 2015 (A)

PETITIONER'S:

1. **DR.KAYYALAKATH JOSEPH CHANDY,
THERESA MOUNT 34,LORIMERS CLOSE,
PETERLEE,CO DURHAM,S.R.8 2 N.H,ENGLAND,
REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER K.JOSEPH GEORGE,S/O.K.M.JOSEPH,
KAYYALAKKATHU HOUSE,KAROOR POST- 686 574,
KOTTAYAM DISTRICT.**
2. **JOSEPH THOMAS,21 FIVE ARCHS,PETERBOROUGH,
P2-6 FG,U.K.,REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER K.JOSEPH GEORGE,S/O.K.M.JOSEPH,
KAYYALAKKATHU HOUSE,KAROOR POST- 686 574,
KOTTAYAM DISTRICT.**
3. **K.JOSEPH GEORGE,S/O.K.M.JOSEPH,KAYYALAKKATHU HOUSE,
KAROOR POST- 686 574,KOTTAYAM DISTRICT.**

**BY ADVS.SRI.MATHEW JOHN (K)
SRI.DOMSON J.VATTAKUZH**

RESPONDENT'S:

1. **THE PALA MUNICIPALITY,REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE,PALA.**
2. **SECRETARY,THE PALA MUNICIPALITY,
MUNICIPAL OFFICE,PALA.**
3. **THE DISTRICT TOWN PLANNER,
TOWN PLANNING OFFICE,KOTTAYAM.**

**R1&R2 BY SRI.V.M.KURIAN, SC, PALA MUNICIPALITY
R3 BY GOVT. PLEADER SMT.K.A.SANJEETHA.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- P1 - A TRUE COPY OF THE RESOLUTION DATED 16.5.2001 OF THE 1ST RESPONDENT MUNICIPALITY.**
- P2 - A TRUE COPY OF THE LETTER DATED 16.5.2001 TO THE 2ND RESPONDENT BY THE 3RD PETITIONER.**
- P3 - A TRUE COPY OF THE NOTICE DATED 23.8.2001 BY THE 2ND RESPONDENT.**
- P4 - A TRUE COPY OF THE COVERING LETTER DATED 20.9.2003 BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT.**
- P5 - A TRUE COPY OF THE REPORT BY THE SECRETARY.**
- P6 - A TRUE COPY OF THE REPLY BY THE INFORMATION OFFICER DATED 15.9.2009 TO THE 3RD PETITIONER.**
- P7 - A TRUE COPY OF THE LETTER BY THE 3RD RESPONDENT DATED 7.9.2013 TO THE 2ND RESPONDENT.**
- P8 - A TRUE COPY OF THE LETTER DATED 7.10.2009 ALONG WITH THE ACCOMPANIMENTS.**
- P9 - A TRUE COPY OF THE LETTER BY THE 3RD PETITIONER TO THE 2ND RESPONDENT DATED 31.7.2014.**
- P10 - A TRUE COPY OF THE NOTICE ISSUED BY THE MUNICIPAL ENGINEER OF THE 1ST RESPONDENT DATED 25.8.2015 TO THE 3RD PETITIONER.**
- P11 - A TRUE COPY OF THE LETTER AND THE APPLICATION FOR BUILDING PERMIT DATED 27.2.2015 BY THE 3RD PETITIONER.**
- P12 - A TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 27.2.2015.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 17803 of 2015

Dated this the 30th day of June, 2015.

JUDGMENT

The petitioners have approached this Court for a direction to the respondent to consider final orders on Ext.P11 application.

2. The petitioners alleged that they have freely surrendered a portion of their registered holding for the purpose of formation of the river view road for the first respondent municipality. In consideration of the same, the first respondent municipality vide Ext.P1 resolution decided to grant the application submitted by the petitioners for constructing a commercial building in the remaining portion of their registered holding. After processing the said application, the second respondent forwarded the same to the third respondent along with Ext.P4 covering letter as early as on 20.9.2003. Even now, the said file is kept pending in the office of the third respondent. The fact of surrender of land and the

eligibility of the petitioners to make a construction in the remaining portion of the property and the further fact that the files are pending with the office of the third respondent is clearly reflected in Ext.P5 report of the second respondent. Ext. P6 information furnished by the Information Officer of the first respondent municipality to the third petitioner also reveals the fact that the files are pending with the office of the third respondent. Still later, vide Ext.P7 letter, the third respondent intimated the second respondent that no permission from the office of the third respondent is necessary since the area of the commercial building proposed to be constructed by the petitioners is only 1568.76 sq.meters. Later, the third petitioner vide his letter dated 31.7.2014 requested the second respondent to place the application submitted by the petitioners before the newly constituted special committee of the first respondent municipality. In reply to the same, the Municipal Engineer of the first respondent municipality vide Ext.P10 notice required the petitioner to rectify certain defects

noted in Ext.P10. As evidenced by Ext.P11, the petitioners promptly produced all the required documents and rectified the defects. More than three months have elapsed after the receipt of Ext.P11. But the second respondent who owes a statutory obligation to promptly pass orders on Ext.P11 has kept reticent in the matter; it is alleged.

3. I have heard the learned counsel for the petitioners and the learned Standing Counsel for the municipality.

As the learned counsel confined his argument to the limited prayer for a direction to the respondent to pass final orders on Ext.P11, this writ petition is disposed of directing the respondent Municipality to consider and pass final orders on Ext.P11, after affording the petitioners an opportunity of being heard, within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.