

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 18046 of 2014 (E)

PETITIONER(S):

**C.G.MATHEW, AGED 60 YEARS,
S/O.GEORGE, MANAGING PARTNER, VELIYIL ENGINEERING
33/297 KD PLOT, KALAMASSERY P.O., COCHIN - 683 109
RESIDING AT VELIYIL HOUSE, ELAMKUNNAPUZHA P.O.
COCHIN - 682 503.**

**BY ADVS.SMT.M.M.JASMIN
SRI.R.SANJITH**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
LOCAL SELF GOVERNMENT DEPARTMENT.**
- 2. KALAMASSERY MUNICIPALITY
REPRESENTED BY ITS SECRETARY, MAIN ROAD
CHANGAMPUZHA NAGAR, ERNAKULAM - 682 033.**
- 3. SECRETARY
KALAMASSERY MUNICIPALITY, MAIN ROAD
CHANGAMPUZHA NAGAR, ERNAKULAM - 682 033.**
- 4. K.A.IBRAHIM KUNJU, AGED 59 YEARS
S/O.ABDUL RAHIMAN, KAUALIL HOUSE, NJALAKAM KARA
KD PLOT P.O., ALUVA, ERNAKULAM - 683 109.**
- 5. WAHIDA, AGED 53 YEARS
W/O.IBRAHIM KUNJU, KAUALIL HOUSE, NJALAKAM KARA
KD PLOT P.O., ALUVA, ERNAKULAM - 683 109.**

**R1 BY GOVERNMENT PLEADER SRI.JUSTIN JACOB
R2 & 3 BY SRI.M.K.ABOOBACKER
R4 & 5 BY ADV. SRI.K.P.ARAVINDAKSHAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

WP(C).No. 18046 of 2014 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - TRUE COPY OF THE NOTICE DT. 05.2.14 BEARING NO. B.A 418/12.**
- P2 - TRUE COPY OF THE BUILDING PERMIT BEARING NO. BA - 418/12 DT. 20.7.12
ISSUED TO THE PETITIONER BY 2ND RESPONDENT.**
- P3 - TRUE COPY OF THE ORDER DT. 19.6.13 IN IA NO. 1173/2013 IN CMA NO. 16/13
OF THE LEARNED ADDITIONAL DISTRICT JUDGE, ERNAKULAM.**
- P4 - TRUE COPY OF THE REPRESENTATION DT. 05.6.14.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 18046 of 2014

Dated this the 23rd day of January, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents, as well as the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. The petitioner, having constructed a residential house on his property within the limits of the second respondent Municipality, applied for occupancy certificate (mentioned erroneously as completion certificate in the writ petition) in the year 2013. In response thereto, the second respondent Municipality issued Exhibit P1 proceedings contending that the petitioner's request could not be entertained since civil proceedings were pending between the petitioner and respondents 4 and 5.

3. As could be seen from record, later, the petitioner has submitted Exhibit P4 representation reiterating his request. It is further evident that the petitioner completed the construction in terms of Exhibit P3 interim direction of the Civil

Court. The learned counsel for respondents 2 and 3 has, however, submitted that the respondent Municipality is willing to consider petitioner's Exhibit P4 representation for the issuance of occupancy certificate without reference to civil proceedings, subject to the petitioner's fulfillment of other statutory criteria.

4. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel for the respondents, as well as the learned Government Pleader, without expressing any opinion on the merits of the matter, this Court disposes of the present writ petition with a direction to the third respondent to consider Exhibit P4 representation of the petitioner in accordance with law, and pass appropriate orders thereon as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

With the above observation, this writ petition is disposed of.

DAMA SESHADRI NAIDU
JUDGE

DMR/-