

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 17918 of 2015 (L)

PETITIONER(S) :

**KHADEEJA, AGED 51 YEARS,
D/O.CHITHALMANNIL ABDULLA, CHITHALMANNIL HOUSE,
MELAKKAM, KARUVAMBURAM PO, MANJERI,
MALAPPURAM DISTRICT, PIN- 676 123.**

**BY ADVS.SRI.P.VENUGOPAL (1086/92)
SMT.T.J.MARIA GORETTI**

RESPONDENT(S) :

- 1. MANJERI MUNICIPALITY,
MANJERI, MALAPPURAM DISTRICT,
REPRESENTED BY ITS SECRETARY- 676 121.**
- 2. SECRETARY, MANJERI MUNICIPALITY,
MANJERI, MALAPPURAM DISTRICT- 676 121.**

BY ADV. SRI.K.SHIBILI NAHA, S.C

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 17918 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE POSSESSION CERTIFICATE DATED 27.01.2015
ISSUED BY THE VILLAGE OFFICER, NARUKARA.**

**EXHIBIT P2: TRUE COPY OF THE 'SITE PLAN' SUBMITTED BY THE PETITIONER
ALONG WITH THE APPLICATION FOR REGULARIZATION.**

**EXHIBIT P3: TRUE COPY OF THE NOTICE/ORDER VIDE NO: E3-3046/15
DATED 06.05.2015 ISSUED BY THE SECOND RESPONDENT TO
THE PETITIONER.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 17918 of 2015

Dated this the 23rd day of June, 2015

J U D G M E N T

Ext.P3, by which the petitioner's application for building permit was rejected, is under challenge.

2. The petitioner is one of the co-owners of an extent of 10.15 cents of land comprised in Re.Sy.No.309/4 (212/8) of Narukara Village in Ernad Taluk, Malappuram within the local limits of the respondent municipality. The petitioner submitted an application for building permit for regularization of the construction of a residential quarters undertaken by the petitioner, which was rejected by Ext.P3 on the ground that the area, in which the permission was sought, comes under 'residential zone' under the 'Melakkam Area DTP Scheme' and there is a proposal for a 10m wide road. The petitioner alleges that the said DTP Scheme was notified almost two decades back and the scheme has become redundant by efflux of time and there is no acquisition proceedings either pending or initiated to acquire the land. It is with this background, the petitioner has approached this Court.

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3. Arguments have been heard.

4. The learned counsel for the petitioner invited my attention to a Division Bench decision of this Court in **Padmini v. State of Kerala** [1999 (3) KLT 465], wherein it was held that no building permit can be refused to any person because there is a proposal to acquire the land in future. Reliance was also placed to the decision of the apex court in **Raju S. Jethmalani v. State of Maharashtra** [(2005) 11 SCC 222], wherein it was held that refusing to grant permits relying on obsolete DTP schemes is a clear violation of the provisions of the Constitution. Viewed in that profile, this Court is of the view that the petitioner is entitled to get the reliefs prayed for.

Therefore, the writ petition is allowed.

Ext.P3 is quashed and the respondent municipality is directed to reconsider petitioner's application for building permit within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-