

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. 18017 of 2015 (B)

PETITIONER(S) :

**JILSON PULIKKOTTIL ANDREWS,
S/O.PULIKKOTTIL ANDEWS,
RESIDING AT PULIKKOTTIL HOUSE, P.O.THAIKKAD,
THAIKKAD AMSOM BRAHMAKULAM DESOM - 680 104,
THRISSUR DISTRICT,
REPRESENTED BY POWER OF ATTORNEY HOLDER SIMON,
S/O.KUNJAPPAN, PULIKKOTTIL HOUSE,
P.O.THAIKKAD AMSOM BRAHMAKULAM DESOM, PIN- 680 104,
THRISSUR DISTRICT.**

**BY SRI.P.VIJAYA BHANU (SENIOR ADVOCATE)
ADVS. SRI.AJEESH K.SASI
SRI.UNNI SEBASTIAN KAPPEN**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF LOCAL SELF GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. GURUVAYOOR MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, GURUVAYOOR - 680 101.**
- 3. THE SECRETARY,
GURUVAYOOR MUNICIPALITY, GURUVAYOOR - 680 101.**
- 4. ASSISTANT ENGINEER,
GURUVAYOOR MUNICIPALITY, GURUVAYOOR - 680 101.**

R1 BY GOVERNMENT PLEADER SMT.KA.SANJEETHA

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

WP(C).No. 18017 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE POWER OF ATTORNEY ISSUED BY
THE PETITIONER DATED 24.05.2015.**

**EXHIBIT P2: TRUE COPY OF THE NOTICE/COMMUNICATION DATED NO.
BA NO. 167/14-15 DATED 09.03.2015 ISSUED BY THE 4TH
RESPONDENT ON BEHALF OF THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 18017 of 2015

Dated this the 23rd day of June, 2015

J U D G M E N T

Ext.P2 issued by the respondent municipality is under challenge in this writ petition.

2. The petitioner is the absolute owner in possession of 3 Ares & 87.71 m² of property comprised in Sy.No.174/1 of Thaikkad Village within the local limits of the respondent municipality. The petitioner submitted an application for building permit. However, as per Ext.P2, the petitioner was intimated that his application for building permit would be considered only after the production of land development permit alleging that large scale land development activities are going on in the land adjacent to the petitioner's property. According to the petitioner, the municipality cannot insist on land development permit for the reason that there are activities of land development in the adjacent lands and the insistence of land development permit for considering the

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application for building permit for the construction of residential building is illegal and against all statutory provisions of the Kerala Municipality Building Rules. Hence, this writ petition.

3. Though notice has been served, the respondent municipality has not entered appearance.

4. Heard the learned counsel for the petitioner and the learned Government Pleader.

5. The respondent municipality is insisting on land development permit as land development activities are going on in the adjacent properties. Section 2(v) of the Kerala Municipality Building Rules 1999 defines development of land as follows;

“(v) 'development of land' means any material change on the use of land other than for agricultural purpose brought about or intended to be brought about by filling up of the land and/or water bodies or changing from the existing former use of the land, layout of streets and foot paths, sub-division of land for residential plots or for other uses including layout of internal streets, conversion of wet land, and developing parks, play grounds and social amenities of the like, but does not include legal partitioning of family property among heirs.”

As the property of the petitioner is a pacca garden land as

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per the BTR, the respondent municipality cannot insist for a land development permit for granting building permit. It is also crucial to note that the extent of land held by the petitioner is only 3.87 Ares. Therefore, this Court is of the definite view that the petitioner is entitled to get the relief as prayed for.

Therefore, this writ petition is disposed of directing the respondent municipality to consider the application for building permit submitted by the petitioner and pass positive orders granting building permit after affording the petitioner an opportunity of being heard. This shall be done within a period of two weeks from the date of receipt of a copy of this judgment.

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

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-