

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 18382 of 2014 (W)

PETITIONER(S):

**JOY, AGED 44 YEARS,
S/O. CHAZHOOR JOSE, CHAZHOOR HOUSE, SN PARK
POOTHOLE DESOM, ARANATTUKARA VILLAGE, PO POOTHOLE
THRISSUR-4.**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

- 1. CORPORATION OF THRISSUR
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE
THRISSUR-680001.**
- 2. SECRETARY,
THRISSUR CORPORATION, CORPORATION OFFICE
THRISSUR-680001.**

BY ADV. SRI.KODOTH SREEDHARAN,SC,

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1. TRUE COPY OF THE BASIC TAX RECEIPT DATED 19-4-2014 ISSUED BY THE VILLAGE OFFICER, ARANATTUKARA VILLAGE.**
- P2. TRUE COPY OF THE APPLICATION FOR THE BUILDING PERMIT DATED 20-3-2014 SUBMITTED TO THE RESPONDENTS.**
- P3. TRUE COPY OF THE CHALAN RECEIPT DATED 3-4-2014 ISSUED BY THE CORPORATION HAVING NO. 0304526.**
- P4. TRUE COPY OF THE INTIMATION NOTICE DATED 26-4-2014 ISSUED BY THE RESPONDENTS.**
- P5. TRUE COPY OF THE REPLY LETTER DATED 9-2-2010 ISSUED BY THE CORPORATION.**
- P6. TRUE COPY OF THE UNDERTAKING GIVEN BY THE PETITIONER DATED 7-7-2014 TO THE CORPORATION.**
- P7. TRUE COPY OF THE COPY OF THE JUDGMENT IN WPC NO. 18538/2012 DATED 5-9-12.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 18382 of 2014

Dated this the 23rd day of February, 2015

J U D G M E N T

Alleging inaction on the part of the respondent corporation in considering the application for building permit, the petitioner has come up before this Court.

2. The petitioner is the owner in possession of 10 cents of land comprised in Sy.No.156/2p of Aranattukara Village within the limits of the respondent corporation. He submitted Ext.P2 application for building permit before the respondent corporation. However, as per Ext.P4 letter, he was informed that the aforesaid property has been included in the notification for the implementation for master plan of the corporation. As per Ext.P5, the corporation informed that though there was a notification of proposal for master plan in the year 1985, the same has not been implemented and no step has been taken and even no fund was allotted so far. It

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was further informed that the property covered by the said notification is not freezed. From Ext.P5, it is very clear that the area notified by the corporation for the implementaiton of the master plan stands still with effect from 31.10.1985, i.e., for the last more than 29 years. While so, the 1st respondent, vide letter dated 26.04.1014, informed the petitioner to submit a revised site plan after leaving the area proposed for master plan road widening. On receipt of Ext.P5, the petitioner has given a written undertaking in a notarized affidavit informing that he submitted the site plan after leaving sufficient space prescribed under the Kerala Municipalities Building Rules. As evidenced by Ext.P6, it was undertaken by the petitioner that if it is found necessary to demolish such portion of the building for any acquisition under any town planning scheme, he is ready to demolish the same at his risk and cost, which is permissible under Section 383A of the Kerala Municipalities Act. The petitioner alleges that no action has been taken by the respondents in the

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matter. It is with this background, the petitioner has come up before this Court.

3. Today, when the matter came up for hearing, the learned counsel for the petitioner submitted that he would demolish the proposed construction in the event of the master plan being implemented ultimately without making any claim for compensation.

In the light of the said submission, the writ petition is disposed of directing the respondent corporation to issue building permit in accordance with law on condition that the petitioner shall demolish the proposed construction in the event of the master plan being implemented ultimately without claiming any compensation for the construction. The building permit shall be issued within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-