

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

WP(C).No. 18502 of 2015 (K)

PETITIONERS :

1. **PUSHPALATHA T.G., AGED 47 YEARS,
D/O. P.V. GOPALAKRISHNA PILLAI,
VALLITHOTTATHIL, KESAVASADANAM
KUTTOOR VILLAGE AND P.O THIRUVALLA TALUK,
PATHANAMTHITTA DISTRICT - 689 106.**
2. **P.V. GOPALAKRISHNA PILLAI, AGED 72 YEARS,
S/O.VELAYUDHA KURUP, VALLITHOTTATHIL KESAVASADANAM,
KUTTOOR VILLAGE AND P.O., THIRUVALLA TALUK,
PATHANAMTHITTA DISTRICT. 689 106.**

**BY ADVS.SRI.N.P.PRAJEESH
SRI.BIJO THOMAS GEORGE**

RESPONDENTS :

1. **KUTTOOR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
GRAMA PANCHAYATH OFFICE, KUTTOOR P.O.,
THIRUVALLA, PATHANAMTHITTA DISTRICT. 689 106.**
2. **STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT ANNEX
THIRUVANANTHAPURAM - 695 001.**
3. **THE SUB INSPECTOR OF POLICE
THIRUVALLA 689 101.**

***ADDL. R4 & R5 IMPEADED :**

4. **C.N. CHELLAMMA, AGED 90 YEARS, W/O. KESAVAKURUPPU,
VADAKKEKOOTTU (VALLITHOTTATHIL), THALAYAR, KUTTOOR,
PATHANAMTHITTA.**

WP(C).No. 18502 of 2015 (K)

5. SANIL KUMAR, AGED 44 YEARS, S/O. KESAVAKURUP,
VADAKKEKOOTTU (VALLITHOTTATHIL), THALAYAR,
KUTTOOR, PATHANAMTHITTA.

*ADDL. R4 & R5 ARE IMPEADED AS PER ORDER DT 20-08-2015 IN
IA NO. 12097/2015

R1 BY SRI.GEORGE CHERIAN SENIOR ADVOCATE

BY ADV. SMT.K.S.SANTHI

BY ADV. SMT.LATHA SUSAN CHERIAN

R2 & R3 BY GOVERNMENT PLEADER SMT. ANITHA RAVEENDRAN

ADDL R4 & R5 BY ADV. SRI.P.HARIDAS

BY ADV. SRI.P.C.SHIJIN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: COPY OF THE NOTICE DATED 27.7.12 ISSUED BY THE IST RESPONDENT.
- EXHIBIT P2: COPY OF NO OBJECTION CERTIFICATE DATED 19.10.12 ISSUED BY KSTP.
- EXHIBIT P3: COPY OF ORDER DATED 24.10.14 ISSUED BY IST RESPONDENT.
- EXHIBIT P4: COPY OF ORDER DATED 7.3.25 IN COMP. 1617/2014 OF THE OMBUDSMAN FOR LSGD.
- EXHIBIT P5: COPY OF ORDER DATED 12.5.15 ISSUED BY IST RESPONDENT.
- EXHIBIT P6: COPY OF ORDER DATED 17.6.15 ISSUED BY THE IST RESPONDENT.
- EXHIBIT P7: COPY OF LICENSE ISSUED BY THE IST RESPONDENT DATED 9.5.13.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J

WPC No.18502 of 2015

Dated this the 20th day of August, 2015

JUDGMENT

The petitioners are challenging Exts.P3, P5 and P6 notices issued by the respondent Panchayat.

2. The first petitioner is the absolute owner of 0.62 Ares of land in Re.Sy.No.149/10-2 of Kuttoor Village and she is having joint ownership over 0.94 Ares of land in Re.Sy.No.149/10-3 of Kuttoor Village along with her husband Viswanathan Nair. There was an old shop room bearing No.VII/4 of Kuttoor Grama Panchayat in the above property.

According to the petitioners, the old building was demolished and a new building including shop rooms on the ground floor was constructed in the year 2012 by obtaining no objection certificate from the KSTP since the property situates on the side of M.C.Road. At that time, there was no necessity to obtain building permit from the Local Self Government Institution and the application for

NOC was forwarded to the KSTP through the first respondent Grama Panchayat. After the completion of construction, the first petitioner approached the first respondent for assigning building number to the new construction. The second petitioner was conducting a provisional store in the old building and he is continuing the business in the shop room on the ground floor of the new building also.

The first respondent issued Ext.P3 without taking any action for numbering the building and by stating that the building was constructed without obtaining any permit. The second petitioner filed an application for renewal of D & O license, but the first respondent refused to renew the license, pointing out that the building was constructed without any permission. The second petitioner approached the Ombudsman and obtained Ext.P4 order. However, the first respondent issued Ext.P5 directing to close down the shop room. The first respondent also issued Ext.P6 and is taking hasty steps for demolition of the shop room with police assistance. It is with this background, the

petitioners have come up before this Court.

I have heard the learned counsel for the petitioners, the learned standing counsel for the first respondent, the learned Government Pleader and the learned counsel for the additional respondents 4 and 5.

As the learned counsel for the petitioners confined his argument to the limited prayer for a direction to the respondents to consider the petitioners' objection to Ext.P5 notice, this writ petition is disposed of directing the respondent Panchayat to consider the petitioner's objections to Ext.P5 notice, after affording the petitioners and respondents 4 and 5 an opportunity of being heard. This shall be done within a period of three weeks from the date of receipt of a copy of this judgment. Till that exercise is completed, no coercive action shall be initiated against the petitioner.

sd/-A.V.RAMAKRISHNA PILLAI
JUDGE

css/

true copy

P.S.TO JUDGE