

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

WP(C).No. 18559 of 2015 (T)

PETITIONER(S):

**M. LAKSHMIDEVI, AGED 48 YEARS,
W/O.RAMAKRISHNAN, RESIDING AT HARISREE,
KAIKUTHU PARAMBIL, NOORINI P.O., PALAKKAD.**

**BY ADVS.SRI.S.ANANTHAKRISHNAN
SRI.N.K.SUBRAMANIAN**

RESPONDENT(S):

**THE PALAKKAD MUNICIPALITY
REPRESENTED BY ITS SECRETARY,
PALAKKAD - 678 001.**

**BY ADVS. SRI.T.C.SURESH MENON
SRI.P.S.APPU**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 18559 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE POSSESSION CERTIFICATE DT 24-04-2015.

EXT.P2: TRUE COPY OF THE BASIC TAX RECEIPT DT 23-04-2015.

EXT.P3: TRUE COPY OF THE NOTICE DTD. 1-6-15 ISSUED BY THE RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 18559 of 2015

Dated this the 7th day of July, 2015.

JUDGMENT

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

2. The petitioner alleges that the application for building permit to construct a small building in an extent of 0.0343 ares cents of land owned by her, has been rejected by the respondent mainly stating that the same cannot be considered since a 7 metre road has been planned in the DTP scheme through the said survey number and the plot has been included in the unauthorisedly divided plots list. It is submitted that till date there is no acquisition proceedings. The owner of the plot is having the right to divide his plot and that does not need any permission from the respondent. No such restrictions can be validly put by the respondent; it is alleged. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. The learned Standing Counsel for the respondent municipality on instructions submit that the petitioner's construction is violating the building rules. However, the learned counsel for the petitioner would submit that the petitioner is ready to rectify the same.

5. 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 set aside and the respondent municipality is

directed to reconsider the matter and pass appropriate orders on the application for building permit submitted by the petitioner, if it is otherwise in the order, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.