

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 18582 of 2015 (W)

PETITIONER :

**DR.O.C.JOHN & (MRS). ANNIE JOHN CHARITABLE
SOCIETY OF INDIAN MEDICAL ASSOCIATION,
CHALAKUDY, BUILDING NO.458/2, CONVENT ROAD,
EAST CHALAKUDY POST, THRISSUR-680 307,
REPRESENTED BY ITS PRESIDENT DR.SOJAN K.JOSEPH.**

**BY SRI.S.RAMESH BABU,SENIOR ADVOCATE
ADVS. SRI.P.RAVINDRA NATH
SRI.N.KRISHNA PRASAD**

RESPONDENT :

**THE CHALAKUDY MUNICIPALITY,
REPRESENTED BY ITS MUNICIPAL SECRETARY,
MUNICIPAL OFFICE, CHALAKUDY.**

BY ADV. SRI.SHEEJO CHACKO, SC, CHALAKUDY MUNICIPALITY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 18582 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE CERTIFICATE OF REGISTRATION DATED 5-6-2013.**
- P2 : TRUE COPY OF THE APPLICATION 25-3-2012**
- P3 : TRUE COPY OF THE ORDER DATED 4-6-2012**
- P4 : TRUE COPY OF THE WPC.NO.19718 OF 2012 DATED 25-10-2013.**
- P5 : TRUE COPY OF THE ORDER DATED 28-2-2014**
- P6 : TRUE COPY OF THE WRIT PETITION (CIVIL) NO. 25765/2013 DATED 26-9-2014.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO JUDGE

sts

A.V.RAMAKRISHNA PILLAI, J

WPC No.18582 of 2015

Dated this the 10th day of July, 2015

JUDGMENT

Ext.P2 by which petitioners' application for building permit was rejected is under challenge.

2. The petitioner is a charitable society duly registered under the Travancore Cochin Literary Scientific and Charitable Society Registration Act. The Society is in ownership and possession of 60 cents of land comprised in Sy.No.458/2 of Chalakudy East Village within the limits of the respondent Municipality. The petitioner submitted an application for a permit, for construction of residential apartments before the respondent, which was rejected by the respondent stating that the land was proposed to be acquired in connection with the Detailed Town Planning Scheme, 1983. It is with this background, the petitioner has approached this Court.

3. I have heard the learned counsel for the petitioner and the learned standing counsel for the respondent Municipality.

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.P5 is quashed and the respondent Municipality is directed to consider the petitioner's application for building

permit and grant permit within a period of one month
from the date of receipt of a copy of this judgment.

sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

CSS/

true copy

P.S.TO JUDGE