

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 18808 of 2014 (A)

PETITIONER:

T.K.VASU, AGED 74 YEARS,
S/O.KESAVAN, THANNICKAL VEEDU, KALLINGAL,
KULATHOOR(P.O), THIRUVANANTHAPURAM.695 583.

BY ADV. SRI.K.RAJESH KANNAN

RESPONDENTS:

1. CORPORATION OF THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,
THIRUVANANTHAPURAM -1.
2. THE ASSISTANT EXECUTIVE ENGINEER
CORPORATION OF THIRUVANANTHAPURAM, ZONAL OFFICE,
ATTIPRA, KULATHOOR(P.O), THIRUVANANTHAPURAM. 695 583.
3. K.ANIL KUMAR
HOUSE NO.476, KUNNUMPURATH VEEDU,
PARUTHIKKUZHY, NEAR SNHS SCHOOL,
UZHAMALAKKAL, THIRUVANANTHAPURAM - 41.

(ADDRESS OF R3 IS CORRECTED AS PER ORDER DATED 02.12.2014 IN
I.A. NO. 16339 OF 2014.)

R1-R2 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
R1-R2 BY ADV. SRI.P.K.MANOJKUMAR,SC
R3 BY ADV. SRI.SUMAN CHAKRAVARTHY
R3 BY ADV. SRI.SANDEEP T.GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : TRUE COPY OF THE ORDER IN APPEAL NO.406/2013 DATED 20.07.2013 PASSED BY THE HONOURABLE TRIBUNAL FOR LOCAL SELF GOVT. INSTITUTIONS, THIRUVANANTHAPURAM.
- EXT.P2 : TRUE COPY OF THE OCCUPANCY CERTIFICATE ISSUED TO THE PETITIONER ON 30.01.2014.
- EXT.P3 : TRUE COPY OF THE COMPLAINT DATED 07.02.2014 FILED BEFORE THE HONOURABLE OMBUDSMAN FOR LOCAL SELF GOVT. INSTITUTIONS, THIRUVANANTHAPURAM.
- EXT.P4 : TRUE COPY OF THE REQUEST DATED 21.02.2014 FILED BEFORE THE 1ST RESPONDENT.
- EXT.P5 : TRUE COPY OF THE NOTICE DATED 19.03.2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.
- EXT.P6 : TRUE COPY OF THE NOTICE DATED 19.03.2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS:

- EXT.R1(a) : PHOTOSTAT COPY OF THE BUILDING PERMIT NO.U2/BA/100-A/11 DATED 01.11.2012 ISSUED BY THE SECRETARY, CORPORATION OF THIRUVANANTHAPURAM TO THE PETITIONER.
- EXT.R1(b) : PHOTOSTAT COPY OF NOTICE NO.ZAE.468/13 DATED 14.02.2013 ISSUED BY THE TOWN PLANNING OFFICER, THIRUVANANTHAPURAM CORPORATION TO THE PETITIONER.
- EXT.R1(c) : PHOTOSTAT COPY OF THE OFFICE NOTE NO.ZA4/ZAE/468/13 DATED 18.02.2014 ISSUED BY THE CORPORATION OF THIRUVANANTHAPURAM TO THE PETITIONER.
- EXT.R1(d) : PHOTOSTAT COPY OF NOTICE NO.ZA4/ZAE/468/13 DATED 19.03.2014 ISSUED BY THE ASSISTANT EXECUTIVE ENGINEER, TRIVANDRUM CORPORATION TO THE PETITIONER.
- EXT.R1(e) : PHOTOSTAT COPY OF NOTICE NO.ZA4/ZAE/468/13 DATED 16.05.2014 ISSUED BY THE ASSISTANT EXECUTIVE ENGINEER, TRIVANDRUM CORPORATION TO THE PETITIONER.

: 3 :

- EXT.R1(f) : PHOTOSTAT COPY OF THE COUNTER STATEMENT NO.ZAE-3557/13 DATED 28.07.2014 FILED BY THE SECRETARY, CORPORATION OF THIRUVANANTHAPURAM BEFORE THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN O.P. NO. 201/2014.
- EXT.R1(g) : PHOTOSTAT COPY OF THE LETTER DATED 15.11.2014 SUBMITTED BY SRI. S. ANIL KUMAR TO THE SECRETARY, TRIVANDRUM CORPORATION.
- EXT.R1(h) PHOTOSTAT COPY OF NOTICE NO.ZA4/ZAE-468//13 DATED 04.06.2014 ISSUED BY THE ASSISTANT EXECUTIVE ENGINEER, TRIVANDRUM CORPORATION TO THE PETITIONER.
- EXT.R1(i) TRUE PHOTOGRAPH SHOWING THE UNAUTHORISED CONSTRUCTIONS MADE BY THE PETITIONER.

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 18808 of 2014 (A)

Dated this the 21st day of January, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned Standing Counsel for the respondent Corporation and the learned counsel for the 3rd respondent, apart from perusing the record.

2. The petitioner, a senior citizen, applied and obtained building permission through Ext.R1(a) and later effected constructions. On completing the construction, when he had applied for building number, it was not granted on the ground that the construction was in deviation of the sanctioned plan. Under those circumstances, aggrieved by the inaction of the respondent Corporation in granting the building number, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner has submitted that the petitioner has effected construction strictly in accordance with the building permit and if there are any

deviations therefrom, the respondent Corporation is at liberty to take necessary steps. He has further submitted that it is incumbent on the part of the respondents to consider the petitioner's application and take necessary action without further delay on the issue of assigning the building number.

4. The learned Senior Counsel for the respondent Corporation has submitted that, on inspection, the authorities of the Corporation have found that there are deviations. He has further submitted that the respondent Corporation has already initiated steps in terms of Section 406 of the Kerala Municipality Act.

5. The learned Counsel for the 3rd respondent has submitted that the 3rd respondent being an officer of the Corporation, the petitioner has made certain unfounded and unsubstantiated allegations against him. As such, he has been constrained to file a counter affidavit placing on record what is said to be the falsity of allegations made by the petitioner. In the light of the present disposition directing the respondent

Corporation to consider the petitioner's application, this Court is of the opinion that the allegations made against the 3rd respondent or the truth and relevance thereof need not be gone into. As such, whatever allegations were made against the 3rd respondent have not been taken on record.

Having regard to the submission made by the learned Senior Counsel for the respondent Corporation, the present writ petition is disposed of with a direction to the respondent Corporation to consider the petitioner's application for assigning building number after physical verification of the building and take further steps pursuant to Section 406 of the Act, which is said to have already been invoked, and complete the process as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment.

sd/- DAMA SESHADRI NAIDU, JUDGE.

