

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 18916 of 2015 (L)

PETITIONER:

**ISRAYEL, AGED 30 YEARS
S/O YESUDASAN,
BETHEL MANDIRAM,
KODUNGAVILA PO**

**BY ADVS.SRI.R.T.PRADEEP
SMT.M.BINDUDAS**

RESPONDENTS:

- 1. ATHIYANNOOR GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY,
KAMUKINCODE
KODANGAVILA PO
695121**
- 2. SECRETARY,
ATHIYANNOOR GRAMA PANCHAYAT,
KAMUKINCODE
KODANGAVILA PO
695121**

BY ADV. SRI.POOVAPPALLY M.RAMACHANDRAN NAIR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

WP(C).No. 18916 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE SALE DEED NO 3277/2014 DATED 8/12/2014**
- EXT.P2: TRUE COPY OF TAX RECEIPT DATED 7/1/2015**
- EXT.P3: TRUE COPY OF THE PHOTOGRAPH PERTAINING TO PROPERTY OF PETITIONER**
- EXT.P4: TRUE COPY OF THE PLAN SEEKING APPROVAL BY PETITIONER**
- EXT.P5: TRUE COPY OF THE CIRCULAR NO 4545/R.A.1/11/LSGD DATED 22/1/2011**
- EXT.P6: TRUE COPY OF THE ORDER DATED 17/6/2015 BY 2ND RESPONDENT**
- EXT.P7: TRUE COPY OF THE JUDGMENT DATED 15.03.2012 IN WPC NO 4682/12**
- EXT.P8: TRUE COPY OF THE CERTIFICATE DATED 23/2/2015 BY VILLAGE OFFICER**
- EXT.P9: TRUE COPY OF THE JUDGMENT DATED 14/7/2014 IN WPC NO 9655/14**

RESPONDENT(S)' EXHIBITS:-NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 18916 OF 2015

Dated this the 11th day of September, 2015

JUDGMENT

Ext. P6 order rejecting the application for building permit put in by the petitioner was not preceded by a local inspection by the Panchayat. The petitioner relies on Ext. P8 certificate issued by the Village Officer to contend that the property is a reclaimed land. The Panchayat has filed a counter affidavit asserting that the property is a wet land especially referring to the recitals in Ext. P1 sale deed. The ground reality has to be taken note of dehors the entry in the revenue records in considering the application for building permit as held in Ext. P7 judgment. Evidently there has been a non-application of mind on the part of the Panchayat in dealing with the application for building permit without complying with the procedure.

2. I quash Ext. P6 order and direct the Panchayat to reconsider the application for building permit after a local inspection. The petitioner shall be afforded an opportunity to establish that the property is not a wet land as alleged. The final orders on the application for building permit shall be

passed within a period of two months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS