

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No. 19054 of 2015 (F)

PETITIONER(S):

- 1. DILEEP KUMAR, AGED 32 YEARS,
S/O.GOPI, SHOONIPARAMBIL HOUSE,
KODAKARA P.O., CHALAKUDY, THRISSUR DISTRICT.**
- 2. MEENU UNNI, AGED 23 YEARS,
W/O.DILEEP KUMAR, SHOONIPARAMBIL HOUSE,
KODAKARA P.O., CHALAKUDY, THRISSUR DISTRICT.**

BY ADV. SRI.R.RAJESH.

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THRIKKAKARA-682 030, ERNAKULAM.**
- 3. THE SECRETARY,
THRIKKAKARA MUNICIPALITY,
THRIKKAKARA-682 030, ERNAKULAM.**

**R1 BY GOVT. PLEADER SMT.K.A. SANJEETHA.
R2 & R3 BY ADV. SRI.S.SHANAVAS KHAN, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 19054 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE SALE DEED NO.545/2015 DATED 16/02/2015 OF SRO, THRIKKAKARA.
- EXT.P2 COPY OF THE TAX RECEIPT FOR THE YEAR 2015-2016.
- EXT.P3 COPY OF THE LOCATION SKETCH ISSUED BY THE VILLAGE OFFICER, KAKKANAD.
- EXT.P4 COPY OF THE NOTICE DATED 23/06/2015 ISSUED BY THE 3RD RESPONDENT.
- EXT.P5 COPY OF THE JUDGMENT DATED 04/03/2015 IN WP(C).NO. 6747/2015 OF THIS HONOURABLE COURT.
- EXT.P6 COPY OF THE JUDGMENT DATED 05/02/2015 IN WP(C).NO.3648/2015 OF THIS HONOURABLE COURT.
- EXT.P7 COPY OF THE JUDGMENT DATED 27/01/2015 IN WP(C).NO.2512/2015 OF THIS HONOURABLE COURT.
- EXT.P8 COPY OF THE JUDGMENT DATED 22/09/2014 IN WP(C).NO.22153/2014 OF THIS HONOURABLE COURT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 19054 of 2015

Dated this the 25th day of June, 2015

J U D G M E N T

Ext.P4 proceedings, by which the petitioners' application for building permit was rejected, is under challenge.

2. The petitioners are the owners in possession of an extent of 2.43 Ares of land comprised in Re.Sy. No.350/1Pt of Kakkanad Village within the local limits of the respondent municipality as per Ext.P1 sale deed. The petitioners submitted an application seeking permit for constructing a residential building, which was rejected by Ext.P4 on the ground that the said land is ear marked as agricultural zone as per the approved structural plan for Central City of Kochi; and hence, no construction beyond 300 sq.m. is permissible. According to the petitioners, several residential buildings are constructed around the neighbouring properties, which are constructed as per

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the building permits issued by the respondent municipality. The petitioners further allege that the structural plan has become obsolete and inoperative. It is with this background, the petitioners have approached this Court.

3. Arguments have been heard.

4. The learned counsel for the petitioners 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 petitioners are entitled to get the reliefs prayed for.

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Therefore, the writ petition is allowed.

Ext.P4 is quashed and the respondent municipality is directed to reconsider petitioners' application for building permit after conducting an inspection of the properties. The entire exercise shall be completed within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-