

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

WP(C).No. 19055 of 2015 (F)

PETITIONER(S):

**T.S. PATTABHIRAMAN,
S/O.LATE T.K. SEETHARAMA IYER,
AGED 63 YEARS, MANAGING DIRECTOR,
KALYAN SILKS, PALACE ROAD, THRISSUR,
(THE PETITIONER IS RESIDING AT SRIRAMAPURI,
PUSHPAGIRI AGRAHARAM, PUNKUNNAM,
THRISSUR DISTRICT).**

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

RESPONDENT(S):

- 1. CORPORATION OF THRISSUR,
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE, THRISSUR - 680 001.**
- 2. THE EXECUTIVE ENGINEER,
CORPORATION OF THRISSUR,
CORPORATION OFFICE, THRISSUR - 680 001.**

**BY ADVS. SRI.K.P.VIJAYAN, SC.
SRI.V.N.HARIDAS.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P-1: TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICE, THRISSUR DATED 20.04.2015.
- EXT.P-2: TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICE, THRISSUR DATED 07.02.2015.
- EXT.P-3: TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 16.03.2015.
- EXT.P-4: TRUE COPY OF FEW PHOTOGRAPHS DEPICTING THE SITUATION PREVAILING DATED -NIL-.
- EXT.P-5: TRUE COPY OF THE JUDGEMENT IN W.A.NO.1731/2008 ON THE FILE OF THIS HONOURABLE COURT DATED 14.06.2011.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 19055 of 2015

Dated this the 2nd day of July, 2015.

JUDGMENT

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

2. The petitioner holds a parcel of land comprising of 12 cents in Sy.No.456/4 in Thrissur Village within the first respondent Corporation limits. The petitioner alleges that he had applied for a building permit to construct a commercial building in the property mentioned above. The petitioner was shocked to be informed by the second respondent that the application for building permit cannot be considered, since the area has been zoned as residential according to the D.T.P. Scheme.

3. Arguments have been heard.

4. The learned counsel for the petitioner inviting my attention to Ext. P4 photographs, would submit that there is no merit in the contention put forwarded by the respondent

Corporation because commercial buildings have come up in the entire area and not even a single residential building remain is there. The reason stated in Ext.P3 to reject the application for building permit is untenable. The property has been classified as dry land according to the revenue records. Mere classification of this property in the Master Plan as residential is no reason to deny building permit to a land owner.

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 Corporation is directed to reconsider petitioner's application for building permit within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.