

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 19967 of 2015 (U)

PETITIONERS :

- 1. SREELATHA P., AGED 48 YEARS,
W/O.GIREESH VARMA, "LAVANYA", THRIPIUNITHURA
ERNAKULAM DISTRICT, PIN-682301.**
- 2. JAYASREE.P., AGED 48 YEARS,
W/O.HEMACHANDRA VARMA, MANGALE LANE,
WARRIAM ROAD, ERNAKULAM.**
- 3. SREEKALA.P, AGED 47 YEARS,
W/O.RAJESH VARMA RAJA, FLAT NO.10, SECOND FLOOR,
SREE PATHMAM APARTMENTS, MARATH LANE, M.G.ROAD
THRISSUR-680001.**

**BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA**

RESPONDENTS :

- 1. THE THRISSUR CORPORATION,
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE, THRISSUR.**
- 2. THE SECRETARY,
THRISSUR CORPORATION, THRISSUR.**

BY SRI.KODOTH SREEDHARAN,SC,

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF DOCUMENT NO.2181/2014 OF S.R.O,THRISSUR.
- P2: TRUE COPY OF THE POSSESSION CERTIFICATE IN RESPECT OF THE PETITIONER'S PROPERTY.
- P3: TRUE COPY OF THE LAND TAX RECEIPT IN RESPECT OF THE PETITIONER'S PROPERTY
- P4: TRUE COPY OF THE ORDER NO.DW5/BA/053/15-16 DATED 18.06.2015.
- P5: TRUE PHOTOGRAPHS OF THE ADJACENT PROPERTIES OF THE PETITIONER'S.
- P6: TRUE COPY OF THE JUDGMENT DATED 1.06.2015 IN W.P(C)15241/2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.19967 of 2015

Dated this the 9th day of July, 2015.

JUDGMENT

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

2. Petitioners are the owners in possession of a parcel of land having an extent of 13 cents covered by Ext.P1 document. The property is situated in a residential area within the limits of the first respondent corporation. Petitioners alleges that they intend to construct a three storied apartment complex in the said property. The property is surrounded by several buildings and all of them are residential apartments; it is alleged. By the impugned order (Ext.P4), the petitioner's application for building permit was rejected on the ground that the property is located in a public and semi public zone as per the detailed town planning scheme, where the construction of the residential apartments having a plinth area of more than 200 sq.mtres cannot be permitted. The petitioners point out

that there is no justification for adopting such a plea. According to the petitioner, the detailed town planning scheme for the first respondent corporation is in papers for the last more than 25 years and not even an inch of land had been acquired for the said purpose. The petitioner points out that the property of private land owners cannot be freezed indefinitely on the ground of a scheme which had become obsolete. It is further alleged that this Court in a series of decisions governing the very same corporation had repelled similar contentions and directed the respondent to reconsider the application for building permit de-hors the scheme. On all such cases, the applications had been sanctioned by the resondents.

3. I have heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent Corporation in the matter.

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.

Therefore, the writ petition is allowed.

Ext.P4 is set aside and the respondent corporation is directed to reconsider petitioners' application for building permit within a period of one month from the date of receipt of a copy of this judgment in the light of what has been stated above.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.