

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 20066 of 2015 (G)

PETITIONER:

**SAJEER, 32 YEARS, S/O. MAHMOOD,
VADAKKE PUTHIYA VALAPPIL, THIKKODI,
KOZHIKODE.**

BY ADV. SMT.K.DEEPA (PAYYANUR)

RESPONDENT:

**THE SECRETARY,
THIKKODI GRAMA PANCHAYAT VILLAGE,
THIKKODI (P.O.),
KOZHIKODE DISTRICT, PIN -673 529.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 20066 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS:

**P1 : TRUE COPY OF THE STOP MEMO DATED 17.1.2015 ISSUED AS PER RULE 21
OF THE KERALA PANCHAYAT BUILDING RULE, 2011 DATED 20.1.2015.**

**P2 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER
BEFORE THE RESPONDENT.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.20066 of 2015

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Dated this the 3rd day of July, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P1 stop memo issued by the respondent panchayat against him.

2. The petitioner is the owner of 4.05 ares of property comprised in R.S No.24/1 of respondent panchayat. The petitioner alleges that he belongs to a poor family. He obtained the property as per Document No.3867/12 of S.R.O.Payyoli. During the year 2014, the petitioner decided to construct a house in that plot with the proposed area of 226. sq. mt. The petitioner further alleges that on enquiry, he could understand that the residential occupancy with total built-up area on all floors upto 300 sq. mt does not require previous permission from the panchayat. Hence, the petitioner started construction in the plot without obtaining permission from the panchayat.

3. While the construction work has been in progress, the petitioner was served with Ext.P1 stop memo from the respondent panchayat directing him to stop construction. On receipt of Ext.P1,

the petitioner approached the panchayat and stated the true facts. The petitioner alleges that he has started the construction after availing loan from the bank and his relatives. His grievance is that if the construction is stalled at this stage, he would be put to hardship. According to the petitioner, the construction is not unauthorised. He points out that the construction would come under the purview of Section 10(xii) of the Kerala Panchayat Building Rules i.e. construction upto 300 sq.mt, for which permit is not required and the proposed house would come only below the square metres. It is with this background, the petitioner has approached this Court.

4. Arguments have been heard.

5. When the matter came up for hearing, the learned counsel for the petitioner would submit that the petitioner would be satisfied if a direction is given to the respondent panchayat to consider Ext.P2 representation which is now pending before them.

6. Considering the nature of the submission and the nature of the relief sought for, this Court is of the view that the writ petition can be disposed of even without issuing notice to the respondents.

Therefore, the writ petition is disposed of directing the respondent panchayat to consider and pass orders on Ext.P2 representation after affording the petitioner an opportunity of being heard within a period two weeks from the date of receipt of a copy of this judgment. Till that exercise is completed, further proceedings pursuant to Ext.P1 stop memo shall be kept in abeyance.

To facilitate early action, it shall be open to the petitioner to produce a copy of this judgment along with a copy of the writ petition before the respondent at the earliest.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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