

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 20834 of 2015 (D)

PETITIONER(S):

**VIPIN VELLUVA REYIROTH, AGED 34 YEARS
S/O P.V. JANARDHANAN, 11/159, FRIENDS AVENUE
PUDUPARIYARAM, PALAKKAD 678 733**

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENT(S):

- 1. DISTRICT TOWN PLANNER, PALAKKAD,
TOWN PLANNING OFFICE, DEPARTMENT OF URBAN AFFAIRS
CIVIL STATION, PALAKKAD 678 001**
- 2. PALAKKAD MUNICIPALITY, REPRESENTED BY ITS SECRETARY
PALAKKAD 678 001.**

***ADDL. R3 IMPEADED.**

- 3. THE REVENUE DIVISIONAL OFFICER,
PALAKKAD, IS IMPEADED AS ADDL. THIRD RESPONDENT AS PER ORDER
DT. 29.07.2015.**

**R2 BY ADV. SRI.T.C.SURESH MENON
R2 BY ADV. SRI.P.S.APPU
R3 BY GOVERNMENT PLEADER SRI. C.K. JAYAKUMAR.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE RELEVANT PORTION OF THE PLAN SHOWING THE PROPOSED CONSTRUCTION OF THE RESIDENTIAL BUILDING OF THE PETITIONER PREPARED BY REGISTERED SUPERVISOR.**
- EXHIBIT P2. TRUE COPY OF THE RECOMMENDATION OF THE ZONING REGULATION COMMITTEE DATED 19-06-2015 IN BA 225/15-16/PW5**
- EXHIBIT P3. TRUE COPY OF THE LETTER DATED 02-07-2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER**

RESPONDENT(S)' EXHIBITS: **NIL**

//True copy//

P.A. to Judge

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P.BHAVADASAN, J.

W.P.C. No. 20834 of 2015

Dated this the 09th day of October, 2015

J U D G M E N T

Under challenge is Ext.P3 order whereby the Town Planner to whom the matter was referred to by the local authority has opined that the property in relation to which the building is sought to be put up is found to be fit for paddy cultivation and also that there are certain entries which are not in accordance with law in the application. Therefore, the Town Planner was of the opinion that the permission to put up the building cannot be granted.

2. The learned counsel for the petitioner submits that the Town Planner has no authority in law to pass such an order and the local authority has no case that the property cannot be put to use for construction of a building. It is also pointed out that if at all there are any corrections that can be rectified or if a fresh application needs to be filed, petitioner is willing to do so. But the reason given by the

Town Planner to reject the application cannot be sustained in law.

3. The learned counsel appearing for the second respondent pointed out that its hands are tied in the light of the Town Planner's order and therefore, the matter will have to be decided by the Town Planner.

4. In the light of the contention taken by the petitioner that other buildings have already come up in the locality near by the plot of the petitioner, this Court thought it fit to call for a report directing the Revenue Divisional Officer to make a local inspection of the petitioner's property and ascertain whether the property has been reclaimed and is fit for paddy cultivation. It is also directed to ascertain whether there are paddy fields adjacent to petitioner's property and whether any paddy cultivation is going on there.

5. Presumably in pursuance to the said direction, the learned Government Pleader has filed a statement dated

08.10.2015 appending a copy of the report filed by the Village Officer which shows that near to the plot owned by the petitioner, there are properties where paddy cultivation is going on but, the property of the petitioner has been lying as a barrel land for more than four years and paddy cultivation cannot be carried on there.

In the light of the report, it becomes necessary to reconsider the issue. The impugned order i.e. Ext.P3 order is set aside and the authorities concerned are directed to reconsider the application for construction of the building filed by the petitioner and if there is any error in the application, the petitioner may be allowed to rectify the same or fresh application may be called for. The orders may be passed, at any rate, within a period of 15 days from the date of receipt of the copy of this judgment.

Sd/-
P.BHAVADASAN
JUDGE

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