

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 20899 of 2015 (J)

PETITIONER(S):

**FRIENDS NAGAR RESIDENCE WELFARE ASSOCIATION,
REG.NO.EKM/374/2014 CHILAVANNOOR, KADAVANTHRA P.O,
KOCHI-20, REP. BY ITS SECRETARY, A.A.THOMAS,
S/O.ANTONY, AGED 45, ANANTHURUTHU, FRIENDS NAGAR,
KOCHAPPILLY ROAD, KOCHI-20.**

**BY ADVS.SRI.K.R.VINOD
MS.JENCY SUSAN JOSE
SRI.V.SRI NATH**

RESPONDENT(S):

- 1. THE CORPORATION OF KOCHI, CORPORATION OFFICE,
PARK AVENUE ROAD, KOCHI-31, REP.BY ITS SECRETARY.**
- 2. THE SECRETARY, CORPORATION OFFICE,
PARK AVENUE ROAD, KOCHI-31.**
- 3. T.J.GEORGE, AGED 48, S/O.JOSEPH,
THUMPASSERIL HOUSE, KOORAPPADA P.O., KOTTAYAM.**
- 4. M/S.GALAXY HOMES PVT. LTD.,
REP.BY ITS MANAGING DIRECTOR, GALAXY SQUARE,
RAJAJAI ROAD JUNCTION, M.G.ROAD, KOCHI-682035.**
- 5. THE REVENUE DIVISIONAL OFFICER, FORT KOCHI-682001.**
- 6. THE VILLAGE OFFICER, ELAMKULAM VILLAGE, ELAMKULAM, KOCHI-682020.**

**R1&2 BY ADV. SRI.V.E.ABDUL GAFOOR,SC
SRI.P.K.SOYUZ,SC,**

**R4 BY ADVS. SRI.P.K.SURESH KUMAR (SR.)
SRI.T.U.ZIYAD**

R5 & 6 BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE INFORMATION ISSUED BY THE CORPORATION OF KOCHI AGAINST AN APPLICATION FILED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT**
- P2: COPY OF THE SANCTIONED BUILDING PLAN OF THE R3**
- P3: COPY OF THE ADVERTISEMENT PUBLISHED BY THE R4 ABOUT THE PROPOSED APARTMENT COMPLEX**
- P4: COPY OF THE COMPLAINT LODGED BY THE PETITIONER BEFORE THE R5**
- P5: COPY OF THE REPORT SUBMITTED BY THE R6 BEFORE THE R5**
- P6: COPY OF THE COMPLAINT LODGED BY THE PETITIONER BEFORE THE R2 PRAYING TO SUSPEND AND REVOKE THE BUILDING PERMIT ISSUED TO THE R3**
- P7: RECEIPT ISSUED BY THE R1**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 20899 of 2015

Dated this the 28th day of July, 2015.

JUDGMENT

Alleging inaction on the part of respondents 2, 5 and 6, the petitioner has come up before this Court.

2. The petitioner is an association of the residents of a residential colony by name Friends Nagar in Kochapilly Road, Chilavannur. The petitioner alleges that the 3rd respondent, who owned 81.74 cents of land inside the residential colony, obtained Ext.P2 approved plan from the 2nd respondent for the construction of an apartment complex in the said property by falsely submitting in the location plan that the road to the proposed apartment complex by name Kochappilly Road is having the width of 5 metres. In fact, the said road is having the width of 4 metres as can be seen by Ext.P1 information issued to the 1st respondent and hence the 3rd respondent is not qualified to get the plan approved under Rule 33 of the

Kerala Municipality Building Rules, 1999. Further, the 2nd respondent failed to consider that it is difficult to take fire-rescue vehicles through the said road in the event of an emergency; it is alleged. Moreover, pursuant to Ext.P4 complaint lodged before the 5th respondent, the 6th respondent has filed Ext.P5 report stating that wherein the apartment complex is proposed to be constructed, is 'Nilam' as per the Revenue Records and by the said construction, there would be a possibility of water logging in the nearby properties. However, the 3rd respondent has obtained Ext.P2 plan approved by suppressing the above facts. The petitioner further alleges that the 3rd respondent has transferred the right to construct the apartment complex to the 4th respondent. Therefore, the petitioner filed Ext.P6 complaint before the 2nd respondent praying to suspend and revoke the permit issued in favour of the 3rd respondent invoking the powers under Rule 16 of the Kerala Municipality Building Rules, 1999. However, despite Ext.P6, the 2nd respondent, is not taking any action to

issue stop memo against the proposed building construction; it is alleged.

3. I have heard the learned counsel for the petitioner, the learned standing counsel for the respondent corporation and the learned Government Pleader in the matter.

As the learned counsel for the petitioner confined his argument to the limited prayer for a direction to the respondent corporation to consider Ext.P6 complaint submitted by the petitioner within a time frame, the writ petition is disposed of directing the respondent corporation to consider Ext.P6 complaint, after affording the petitioner and the affected parties, an opportunity of being heard. While taking decision on Ext.P6, respondent corporation shall also take note of Exts. P1 and P5. This shall be done within a period of three weeks from the date of receipt of a copy of this judgment

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.