

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C) .No. 21056 of 2015 (F)

PETITIONER(S) :

1. PREETHY ROY,
MOZHIPARAMBIL HOUSE,
KOLAZHI, THRISSUR.
2. XAVIER A.I.,
ALAPPADAN HOUSE, PAMBOOR, KOLAZHI,
THRISSUR DISTRICT.

BY ADV. SRI.P.N.MOHANAN.

RESPONDENT(S) :

KOLAZHI GRAMA PANCHAYAT
REPRESENTED BY SECRETARY,
KOLAZHI P.O.,
THRISSUR - 680 010.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1. A TRUE COPY OF THE POSSESSION CERTIFICATE DATED 25.05.2015
ISSUED BY THE VILLAGE OFFICER TO THE FIRST PETITIONER.
- EXHIBIT P2. A TRUE COPY OF THE POSSESSION CERTIFICATE DATED 25.05.2015
ISSUED BY THE VILLAGE OFFICER TO THE 2ND PETITIONER.
- EXHIBIT P3. A TRUE COPY OF THE LAND TAX PAID BY THE FIRST PETITIONER DATED
19.05.2015.
- EXHIBIT P4. A TRUE COPY OF THE LAND TAX PAID BY THE SECOND PETITIONER DATED
19.05.2015.
- EXHIBIT P5. A TRUE COPY OF THE PLAN SUBMITTED BY THE FIRST PETITIONER BEFORE
THE RESPONDENT.
- EXHIBIT P6. A TRUE COPY OF THE PLAN SUBMITTED BY THE SECOND PETITIONER
BEFORE THE RESPONDENT.
- EXHIBIT P7. A TRUE COPY OF THE ORDER DATED 12.06.2015 ISSUED BY THE
RESPONDENT TO THE FIRST PETITIONER.
- EXHIBIT P8. A TRUE COPY OF THE ORDER DATED 12.06.2015 ISSUED BY THE
RESPONDENT TO THE SECOND PETITIONER.
- EXHIBIT P9. A TRUE COPY OF THE JUDGMENT DATED 20.10.2011 IN W.P.(C)
NO.23281/11.
- EXHIBIT P10. A TRUE COPY OF THE JUDGMENT DATED 21.03.13 IN W.P.(C)NO.4720/13.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 21056 of 2015

Dated this the 30th day of July, 2015

J U D G M E N T

The petitioners are aggrieved by the rejection of the petitioners' application for building permit on the ground that the petitioners have not obtained development permit.

2. The petitioners purchased 5 cents of land each from a builder for construction of residential building and submitted a plan for approval, which was rejected by Exts.P7 & P8 communications directing the petitioners to produce development permit. According to the petitioners, the said objection is illegal and opposed to sound settled principles of law involved. As per Rule 12 of the Kerala Municipality Building Rules, any approval of site or permission to construct or reconstruct a building can be rejected only on grounds mentioned therein and the reason stated in Exts.P7 & P8 is not relatable to any of the ground mentioned in Rule 12; it is alleged. Therefore, according to the petitioners, Exts.P7 & P8 are liable to set

aside. Hence, this writ petition.

3. Though notice has been served on the respondent panchayath, they did not turn up.

4. The learned counsel for the petitioners relied on Rule 5 of the Kerala Municipality Building Rules, 1999, which deals with the application for development permit. As per the Rule, every person other than a Central or State Government Department, who intends to develop or redevelop any parcel of land, shall apply in writing to the Secretary for issue of a development permit. Here, in this case, the petitioners have no idea to develop the land for any purpose. The petitioners only intend to construct residential buildings in the properties. It is pointed out that no development activity is necessary for the purpose of constructing a residential building. It is true that the petitioners have purchased a piece of land from the person, who has got a larger extent. For the purpose of making constructions in the entire land, the owner of the larger extent may have to approach land by providing roads etc. The petitioners have no intention to develop

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the land; and in fact, development is not necessary also. The petitioners intend to construct residential building in the property as it stands and did not apply for a development permit since development of the plot is not necessary for the purpose of putting up their residential house.

5. The learned counsel for the petitioners relies on Exts.P9 & P10 judgments, which state that the application for building permit cannot be rejected for the reason that no development permit has been obtained.

Therefore, the writ petition is disposed of directing the respondent to consider the application for building permit submitted by the petitioners afresh and to pass positive orders in the light of Exts.P9 & P10 judgments de hors Exts.P7 & P8, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-