

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 21505 of 2014 (K)

PETITIONER :

**P.J.JAMES
S/O. P.J. JOSEPH, AGED 49 YEARS, PLAMOOTTIL HOUSE
KIZHAKKUM BHAGAM KARA, ETTUMANOOR,
KOTTAYAM-686 631.**

**BY SENIOR ADVOCATE SRI.K.RAMAKUMAR
BY ADVS.SRI.S.M.PRASANTH
SRI.M.MANOJKUMAR (CHELAKKADAN)
SMT.ASHA BABU
SMT.AMMU CHARLES
SRI.G.RANJITH**

RESPONDENT :

**THE ETTUMANOOR GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY, ETTUMANOOR-689586.**

***ADDL. R2 IMPEADED**

***ADDL.R2. THE ASSISTANT ENGINEER
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL CIRCLE, ETTUMANOOR,
KOTTAYAM DISTRICT - 689 586.**

***ADDL.R2 IMPEADED AS PER ORDER DATED 10.12.2014 IN IA 16950/14.**

**R1 BY ADVS. SRI.SIBY CHENAPPADY
SMT.ANU GEORGE
SRI.C.JOSEPH JOHNY
ADDL.R2 BY ADV. SRI.SAJEEVKUMAR K.GOPAL, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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WP(C).No. 21505 of 2014 (K)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1. TRUE COPY OF THE ORDER DATED 19-2-2014 PASSED BY THE
 TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS,
 THIRUVANANTHAPURAM.**
- EXT.P2. TRUE COPY OF RECEIPT DATED 17-5-2014 ISSUED TO THE
 PETITIONER BY THE ETTUMANOOR PANCHAYAT.**
- EXT. P3. TRUE COPY OF THE OWNERSHIP CERTIFICATE DATED 21-11-2012
 ISSUED TO THE PETITIONER BY THE RESPONDENT PANCHAYAT.**
- EXT. P4. TRUE COPY OF THE ORDER DATED 18-3-2014 PASSED BY THE
 RESPONDENT PANCHAYAT.**
- EXT. P5. COPY OF REQUEST DT. 4.12.2014 SUBMITTED BY THE PETITIONER.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.21505 of 2014

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Dated this the 23rd day of June, 2015

JUDGMENT

Aggrieved by the refusal to regularise the construction of the petitioner's building in violation of the order of the Tribunal for Local Self Government Institutions, the petitioner has come up before this Court.

2. The petitioner is the owner of building No.VI-1 to 6, within the local limits of respondent panchayat situated by the side of M.C.Road. The petitioner alleges that the front portion of the building was acquired for widening the road. The petitioner renovated the front portion of the building.

3. An application was submitted to the respondent panchayat by certain persons who, according to the petitioner, are not even residing within the limits of the panchayat, to demolish the building though the strengthening of the building was done by the predecessor of the petitioner. The panchayat directed demolition at which time, the petitioner moved the Tribunal for Local Self Government Institutions, which passed an order. The Tribunal held

that the action of the panchayat is wholly illegal and directed the panchayat to pass fresh orders.

4. The petitioner further alleges that he was regularly remitting tax for the building and the panchayat had also issued an ownership certificate to him. After the order of the Tribunal, the panchayat has passed an order rejecting the petitioner's request regularisation of construction of the building. It is with this background, the petitioner has come up with this writ petition.

5. The first respondent has filed a counter affidavit wherein it was stated that on 3.11.2000, building Nos.VI/1 and 2 were acquired for KSTP by Special Tahsildar, Changanassery as part of widening the MC Road at Ettumanoor. However, the petitioner without permission of the respondent panchayat, reconstructed building Nos.VI/3,4,5 and 6. Therefore, certain persons filed petition against the alleged illegal construction and after the enquiry, the then Secretary of the Ettumanoor Grama Panchayat served notice to the petitioner for removing the illegal construction.

6. It was contended that the petitioner has filed an appeal against the said order before the Tribunal and obtained Ext.P1 order. As per the direction of the Tribunal, the then Secretary

again conducted an enquiry and issued Ext.P4 order. It was stated that the petitioner did not obtain any permission for reconstruction of the building and that he has not filed any formal application for building permit or for regularisation till date. Therefore, they prayed for dismissal of the writ petition.

7. Arguments have been heard.

8. The learned senior counsel for the petitioner submitted the petitioner is paying tax to the panchayat and the panchayat issued possession certificate to the petitioner. The learned senior counsel further submitted that the petitioner has not constructed any new building requiring permission from the panchayat and all that required is to renumber the same.

9. On a consideration of the entire facts and circumstances of the case, this Court is of the view that the petitioner is entitled to get the construction regularised and to get the building re-numbered after the regularisation.

Therefore, the writ petition is allowed. Ext.P4 is quashed. The petitioner shall submit an application for regularisation of construction of the building before the respondent panchayat within a period of two weeks from the date of receipt of a copy of this

judgment. In the event of filing such an application, the construction shall be regularised by the respondent panchayat in the light of Exts.P1 and thereafter the building shall be renumbered, and occupancy certificate shall be issued within a period of one month from the date of receipt of application for regularisation.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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