

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI**

**MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937**

**WP(C).No. 21323 of 2015 (M)**  
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**PETITIONER:**  
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**JOSE, AGED 44 YEARS,  
S/O.DEVASSY, MANAVALAN HOUSE,  
ELINJAPRA P.O., THRISSUR DISTRICT.**

**BY SRI.RENJITH THAMPAN, SENIOR ADVOCATE.  
ADV. SMT.P.R.REENA.**

**RESPONDENTS:**  
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- 1. CHALAKUDY MUNICIPALITY,  
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE,  
CHALAKUDY, THRISSUR DISTRICT, PIN-680 307.**
- 2. SECRETARY,  
CHALAKUDY MUNICIPALITY, MUNICIPAL OFFICE,  
CHALAKUDY, THRISSUR DISTRICT, PIN -680 307.**

**BY ADV. SRI.SHEEJO CHACKO, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**rs.**

**WP(C).No. 21323 of 2015 (M)**

**APPENDIX**

**PETITIONER'S EXHIBITS:-**

**P1:- TRUE COPY OF THE BASIC TAX RECEIPT DATED 04/04/2015 ISSUED BY VILLAGE OFFICE CHALAKUDY.**

**P2:- TRUE COPY OF THE LETTER DATED 01/07/2015 OF 2ND RESPONDENT.**

**P3:- TRUE COPY OF THE JUDGMENT IN WP(C).NO.27577/2009 DATED 17/11/2012.**

**RESPONDENT'S EXHIBITS:-        **NIL.****

**//TRUE COPY//**

**P.A. TO JUDGE**

**rs.**

**A.V. RAMAKRISHNA PILLAI, J.**

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W.P.(C) No. 21323 of 2015  
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Dated this the 27<sup>th</sup> day of July, 2015.

**JUDGMENT**

Ext.P2, by which the petitioner's application for building permit was rejected, is under challenge.

2. The petitioner is the owner in possession of a total extent of 46¼ cents of land in Sy.No.289/3 and 293/10 of East Chalakudy Village. The petitioner alleges that aforesaid properties are situated on the western portion of the Tramway Junction at North Chalakudy and his property is abutting the Railway Station Road, which is passing on the southern side of his property. Just on the eastern side of the petitioner's property, the municipality itself is constructing an indoor stadium. On further east of the municipal indoor station is Hotel Sidhartha. The entire area has become a commercially important area for the past more than 35 years. The petitioner further alleges that he had intended to construct a commercial building in the aforesaid property and filed an

application for building permit. By letter dated 1.7.2015, the second respondent has intimated the petitioner that the property of the petitioner is included in 1976 town planning scheme as residential, public and semi public purpose and building permit for commercial building cannot be granted. This court has repeatedly held that the building permit cannot be denied in Chalakudy municipality for the reason of inclusion of the land in a particular zone. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. The learned counsel for the petitioner invited my attention to a Division Bench decision of this Court in **Padmini v. State of Kerala** [1999 (3) KLT 465], wherein it was held that no building permit can be refused to any person because there is a proposal to acquire the land in future. Reliance was also placed to the decision of the apex court in **Raju S. Jethmalani v. State of Maharashtra** [(2005) 11 SCC 222], wherein it was held that refusing to grant permits relying on

obsolete DTP schemes is a clear violation of the provisions of the Constitution. Viewed in that profile, this Court is of the view that the petitioners are entitled to get the reliefs prayed for.

Therefore, the writ petition is allowed.

Ext.P2 is set aside and the respondent municipality is directed to reconsider petitioner's application for building permit within a period of one month from the date of receipt of a copy of this judgment in the light of what has been stated above.

**Sd/-**  
**A.V. RAMAKRISHNA PILLAI**  
**JUDGE**

Scl.