

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. 21656 of 2015 (F)

PETITIONER(S) :

**ABDUL KHADER, AGED 59 YEARS,
S/O.P.M.SULAIMAN HAJI, RESIDING AT RANIYA MANZIL,
236-E, PALKULANGARA, THALIPARAMBU, KANNUR.**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU**

RESPONDENT(S) :

**1. THRISSUR CORPORATION,
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,
THRISSUR- 680 001.**

**2. THE ASSISTANT ENGINEER,
THRISSUR CORPORATION, THRISSUR - 680 001.**

**BY ADVS. SRI.K.P.VIJAYAN
SRI.V.N.HARIDAS**

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

Msd.

WP(C).No. 21656 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT. P1: TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE
 OFFICE, AYYANTHOLE 04.05.2015.**
- EXT. P2: TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT
 TO THE PETITIONER DATED 06.07.2015.**
- EXT. P3: TRUE COPY OF THE PHOTOGRAPHS DEPICTING THE LIE OF THE
 PETITIONER'S PROPERTY DATED- NIL-**
- EXT.P4: TRUE COPY OF THE JUDGMENT IN W.P.(C).NO. 14858/2015 ON
 THE FILE OF THIS HONOURABLE COURT DATED 16.06.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 21656 of 2015

Dated this the 30th day of July, 2015

J U D G M E N T

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

2. The petitioner, along with his wife, is the owner in possession of an extent of 0.0536 hectares of land comprised in Re Sy.No.Y06/1343 of Poonkunnam Village in Thrissur Taluk within the local limits of the respondent corporation. The petitioner submitted an application seeking permit for constructing a residential building, which was rejected as per Ext.P2 stating that the property is included in the paddy zone according to the master plan and buildings up to 200m² alone can be permitted. According to the petitioner, the rejection of building permit ignoring the actual state of affairs is unfair and illegal. It is with this background, the petitioner has approached this Court.

3. Arguments have been heard.

..2..

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 petitioner is entitled to get the reliefs prayed for.

Therefore, the writ petition is allowed.

Ext.P2 is quashed and the respondent Corporation is directed to reconsider petitioner's application for building permit and to pass positive orders within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-