

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 22098 of 2015 (J)

PETITIONER(S):

1. K.K BALACHANDRAN, AGED 54 YEARS,
S/O. PADMANABHAN NAIR, KIZHAKKEKALATHIL HOUSE,
PALAKKULAM, KARUVAMBRAM, MANJERI,
MALAPPURAM DISTRICT.
2. P.GIRIJA VALLABHAN,
S/O. GOVINDAN NAIR, PUTHUKUDI HOUSE, KOVILAKAMKUNDU,
MANJERI, MALAPPURAM DISTRICT.
3. M.P.BASHEER,
S/O. M.P.MUHAMMED, MANHAPULLI HOUSE, ALUNGAL,
PULLANCHERY, MANJERI, MALAPPURAM DISTRICT.

BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU
SRI.P.A.RAJESH
SRI.R.RANJITH (K/489/2011)
SMT.M.LISHA

RESPONDENT(S):

1. THE MANJERI MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, MANJERI,
MALAPPURAM DISTRICT - 676 121.
2. THE SECRETARY,
MANJERI MUNICIPALITY, MANJERI,
MALAPPURAM DISTRICT - 676 121.

BY ADV. SRI.K.SHIBILI NAHA, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 22098 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 - TRUE COPY OF COMMUNICATION ISSUED TO THE PETITIONER BY THE
2ND RESPONDENT DT. 25.6.2015.**

**P2 - TRUE COPIES OF THE PHOTOGRAPHS OF THE PETITIONER AND THE ADJACENT
BUILDINGS.**

**P3 - TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN
WPC NO. 17189/2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 22098 of 2015

Dated this the 4th day of August, 2015

J U D G M E N T

Ext.P3 proceedings, by which the petitioners' application for building permit was rejected, is under challenge in this writ petition.

2. The petitioners are the joint owners of a parcel of property comprised in Re.Sy.No.52-13/34 of Manjeri Village within the local limits of the respondent municipality. The petitioners submitted an application for building permit along with all the sketches and plans, which was rejected by the 2nd respondent as per Ext.P1 stating that as per the Central Area D.T.P. Scheme of the Manjeri Municipality, the area is earmarked as a residential area; and therefore, the building permit cannot be issued. According to the petitioners, the land belonging to the petitioners is in Manjeri Town itself and is surrounded by several commercial buildings, which are

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constructed after obtaining building permits from the Manjeri Municipality. Ext.P2 is the photograph showing the properties of the petitioners. From Ext.P2 itself, it could be seen that the properties in question is surrounded by several commercial buildings. The D.T.P. Scheme under the Town Planning Act, was never implemented in the Manjeri Municipality, though there was a proposal about 3 decades back; it is alleged. Moreover, the outdated Town Planning Schemes in any Municipalities cannot be implemented after the enactment of the Kerala Municipalities Act in 1994. Hence, according to the petitioners, Ext.P1 is illegal and liable to be quashed.

3. Arguments have been heard.

4. The learned counsel for the petitioners 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

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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.P1 is quashed and the respondent municipality is directed to reconsider petitioners' 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/-