

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 22378 of 2015 (V)

PETITIONER(S):

**M. KRISHNA KUMAR, AGED 58 YEARS
S/O.BALAGOPALAN, 34/329(1) VELLATE HOUSE, KARUKODI
VADAKKANTHARA, P.O., PALAKKAD DISTRICT.**

**BY ADVS.SRI.KRISHNA PRASAD. S
SRI.SIBI BHAGAVANDAS
SRI.NOBEL RAJU
SRI.K.S.CHANDRA BOSE**

RESPONDENT(S):

**1. THE SECRETARY
PALAKKAD MUNICIPALITY
OFFICE OF THE PALAKKAD MUNICIPALITY
NEAR MUNICIPAL TOWN HALL
PALAKKAD, PIN: 678 001.**

**2. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM DISTRICT PIN:695 001.**

**R1 BY ADV. SRI.T.C.SURESH MENON
R1 BY ADV. SRI.P.S.APPU
BY GOVERNMENT PLEADER SRI. C.K. JAYAKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1: A TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, PALAKKAD 1, DATED 16/2/13**
- P2: A TRUE COPY OF THE BASIC TAX RECEIPT BEARING NUMBER 6670481 DATED 28/6/2013, FROM THE PALAKKAD 1 VILLAGE OFFICE**
- P3: A TRUE COPY OF THE COMMUNICATION DATED 27/6/2014 OBTAINED FROM THE 1ST RESPONDENT**
- P4: A TRUE COPY OF THE JUDGMENT PASSED IN WPC NO.30700/2014 DATED 12/1/2015**
- P5: A TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DATED 10/6/2015.**

RESPONDENT(S)' EXHIBITS: NIL

//True copy//

P.A. to Judge

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P.BHAVADASAN, J.

W.P.C. No. 22378 of 2015

Dated this the 17th day of September, 2015

J U D G M E N T

Under challenge is Ext.P5 order passed by the first respondent rejecting an application filed by the petitioner for construction of a residential building. The reason given is that it comes within the ambit of the Kerala Conservation of Paddy land and Wetland Act and therefore, the application cannot be considered.

2. The petitioner points out that in the neighbourhood, buildings have been put up by other persons with the permission of the first respondent and the reason now given has no basis at all. In similar cases, this Court has been taking a consistent stand that in such cases, it is for the local authority to make local inspection and satisfy itself as to the nature of land and then consider the application.

3. Merely because the records indicate that it is a paddy land, it is not sufficient according to this Court, if actually on inspection turns out to be otherwise. There is no reason as to why the benefit extended to similarly situated persons should not be extended to the petitioner also.

This petition is allowed. The impugned order is quashed and the first respondent is directed to reconsider the issue after conducting local inspection.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge