

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. 22942 of 2015 (P)

PETITIONER(S) :

MORAN MOR BASELIOS MATHOMA PAULOSE II,  
CATHOLICOS CUM MALANKARA METROPOLITAN,  
DEVALOKAM ARAMANA, DEVALOKAM P.O., KOTTAYAM.

BY ADVS.SRI.S.SREEKUMAR (SR.)  
SRI.P.MARTIN JOSE  
SRI.P.PRIJITH  
SRI.THOMAS P.KURUVILLA  
SRI.AJAY BEN JOSE.

RESPONDENT(S) :

1. THE SECRETARY,  
THIRUMARADI GRAMA PANCHAYATH,  
THIRUMARADI P.O., ERNAKULAM - 686 662.
2. THE SENIOR TOWN PLANNER,  
TOWN PLANNING OFFICE, ERNAKULAM.
3. THE CHIEF TOWN PLANNER,  
TRIVANDURM.
4. THE STATE OF KERALA,  
REPRESENTED BY PRINCIPAL SECRETARY,  
LOCAL SELF GOVERNMENT DEPARTMENT,  
GOVERNMENT SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER SMT. K.A.SANJEETHA.

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

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

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EXT. P1 - TRUE COPY OF BUILDING PERMIT DT. 17.12.2010 ISSUED BY THE 1ST RESPONDENT.

EXT. P2 - TRUE COPY OF GO(MS) NO. 150/2014/LSGD DT. 21.8.2014.

EXT. P3 - TRUE COPY OF APPLICATION FOR REGULARIZATION OF THE CONSTRUCTION DT. 04.11.2014 IN FORM IA PRESCRIBED UNDER RULE 3 OF THE BEFORE THE 1ST RESPONDENT.

EXT. P4 - TRUE COPY OF FORWARDING LETTER DT. 27.12.2014 ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.

EXT. P5 - TRUE COPY OF THE COVERING LETTER DT. 20.7.2015 ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

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NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

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

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W.P.(C) No. 22942 of 2015  
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Dated this the 30<sup>th</sup> day of July, 2015

**J U D G M E N T**

Seeking a direction to the respondent to consider the application submitted by the petitioner for regularization of unauthorized construction, the petitioner has come up before this Court.

2. The petitioner, who is the Malankara Metorpolitan and Catholicos of the East of Malankara Orthodox Syrian Church with its Head Quarters at Kottayam, is the owner of 30 cents of land comprised in Sy.Nos.328/7B and 329/2B of Thirumaradi Village, Muvattupuzha Taluk. The petitioner applied for building permit to construct a study centre in the said property having a single floor of 154m<sup>2</sup> of plinth area. During the course of construction, there was paucity of funds; and hence, it was decided to restrict the plinth area to 123.12m<sup>2</sup>. After completion of construction, the

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petitioner applied for completion certificate and for numbering the building. However, the Secretary rejected the request for issuing the completion certificate and refused to number the building as per order dated 11.10.2012. Though an appeal was filed before the Tribunal, it was dismissed. While so, the 4<sup>th</sup> respondent Government issued the Kerala Panchayat Building (Regularisation of unauthorized construction) Rules, 2014 and published in the gazette as G.O(MS) No.150/2014/LSGD for regularization of unauthorized buildings including churches and other religious institutions constructed on or before 31-03-2013. The petitioner points out that as per Rule 2(j) of Exhibit.P2, unauthorized construction means, any construction as explained under Section 235AB of Kerala Panchayat Raj Act, which was carried out or completed on or before 31.03.2013 and which cannot be regularized under Section 235W of Kerala Panchayat Raj Act, 1994 and Chapter XXII of the Kerala Panchayat Raj Building Rules;

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and the construction made by the petitioner comes within the meaning of unauthorized construction since it was completed as early as on October, 2012. The petitioner submitted the application for regularization of the construction dated 04.11.2014 in Form 1-A prescribed under Rule 3 of the Rules before the 1<sup>st</sup> respondent. The application for regularization is pending for long; and since the petitioner could not get the construction regularized, he could not put the building for the benefit of the parishioners; it is alleged. According to the petitioner, the 2<sup>nd</sup> respondent is duty bound to forward the application to the 3<sup>rd</sup> respondent and the 3<sup>rd</sup> respondent is duty bound to forward the same to the 4<sup>th</sup> respondent in accordance with Exhibit.P2 Rules. Hence this writ petition.

3. I have heard the learned senior counsel for the petitioner and the learned senior Government Pleader.

4. As the learned senior counsel for the petitioner confined his argument to the limited prayer for a

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direction to the respondents to consider the application for regularization, this Court is of the view that the writ petition can be disposed of even without issuing notice to the respondents.

Therefore, the writ petition is disposed of directing the 2<sup>nd</sup> respondent to forward Ext.P3 application with recommendation to the 3<sup>rd</sup> respondent within a period of one month; and on receipt of the same, the 3<sup>rd</sup> respondent shall forward the same to the 4<sup>th</sup> respondent within a period of two weeks thereafter in accordance with law to facilitate the Government to take a final decision without further delay.

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

bka/-