

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

WP(C).No. 23745 of 2015 (P)

PETITIONERS:

1. SKYLINE FOUNDATIONS AND STRUCTURES PRIVATE LIMITED
NETTIKKADAN MAGNAM, KARIKKAMURI CROSS ROAD
KOCHI - 682 011, REPRESENTED BY ITS MANAGING DIRECTOR
K.LAVA, S/O.LATE P.KRISHNAN, 14A
SKYLINE SILVER OAK APARTMENTS, JAWAHAR NAGAR
KOCHI 682 020.
2. ANN PAPPALI,
W/O.HERMAN PAPPALI, PAPPALI RESIDENCY, PADMA RAO NAGAR
SECUNDARABAD, HYDERABAD, TELANGANA STATE- 500025.
3. VIVEK PAPPALI
S/O.HERMAN PAPPALI, PAPPALI RESIDENCY, PADMA RAO NAGAR
SECUNDARABAD, HYDERABAD, TELANGANA STATE-500025.
4. VIKRAM PAPPALI
S/O.HERMAN PAPPALI, PAPPALI RESIDENCY, PADMA RAO NAGAR
SECUNDARABAD, HYDERABAD, TELANGANA STATE 500025.

BY ADV. SRI.M.A.ABDUL HAKHIM

RESPONDENT(S):

1. THRIKKAKKARA MUNICIPALITY
REPRESENTED BY ITS SECRETARY, THRIKKAKKARA, 682 030.
2. THE SECRETARY
THRIKKAKKARA MUNICIPALITY, THRIKKAKKARA, PIN: 682 030.
3. THE SENIOR TOWN PLANNER
TOWN PLANNING DEPARTMENT, CIVIL STATION, KAKKANAD
ERNAKULAM, PIN: 682 030.

R BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA
R BY SRI.S.SHANAVAS KHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 23745 of 2015 (P)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1: A PHOTOCOPY OF THE LAND TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, VAZHAKKALA VILLAGE TO THE 1ST PETITIONER

P2: A PHOTOCOPY OF THE LAND TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, VAZHAKKALA VILLAGE TO THE 2ND PETITIONER

P3:A PHOTOCOPY OF THE LAND TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, VAZHAKKALA VILLAGE TO THE 3RD PETITIONER

P4:A PHOTOCOPY OF THE LAND TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, VAZHAKKALA VILLAGE TO THE 4TH PETITIONER

P5:A PHOTOCOPY OF THE LAND TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, VAZHAKKALA VILLAGE TO THE 4TH PETITIONER

P6: A PHOTOCOPY OF THE BUILDING PERMIT ISSUED BY THE 1ST RESPONDENT FOR COMPOUND WALL

P7: A PHOTOSTAT COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT FOR APPLICATION OF BUILDIG PERMIT

P8: A PHOTOSTAT COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT

P9: TRUE PHOTOGRAPHS SHOWING NEIGHBOURING CONSTRUCTIONS (6 NOS)

P10: A PHOTOSTAT COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC NO.12868/2014

P11: A PHOTOSTAT COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC NO.19054/2015

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 23745 of 2015

Dated this the 13th day of August, 2015.

JUDGMENT

By this writ petition, the petitioners seek to challenge Ext.P8 proceedings of the third respondent by which the request of the petitioners for permission to construct a multistoried residential building in their property having an extent of 46.71 ares, has been rejected on the ground that there is a proposal to widen neighbouring interior roads as per DTP scheme. The petitioners allege that several multi-storied residential apartments are constructed on the side of those roads and constructions are effected as per the permits issued by the respondents 1 and 2. Now the proposed road widening is impossible to implement; it is alleged. The plan has become obsolete and inoperative. It is in this context, the petitioners have approached this Court.

2. Arguments have been heard.
3. 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 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.P8 is set aside and the third respondent is directed to consider the issue in the light of what has been stated above and to grant the clearance if the same is otherwise in order and after getting clearance from the third respondent, the request of the petitioner shall be considered by the respondent municipality within a period of one month thereafter and shall

pass orders granting permit if the request is otherwise in order.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.