

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 23872 of 2015 (H)

PETITIONER(S):

- 1. C.K ABU, AGED 66 YEARS,
S/O. KOCHUMHAMMED, CHANGACHERY HOUSE, MEDUNTHODE,
MUDICKAL P.O.**
- 2. M/S. HOTEL SWAPNA INDIA (P) LTD,
PERUMBAVOOR, REP. BY MANAGING DIRECTOR,
K.A.MOHAMMED GARLAFI, S/O. K.H.ABDULLA.**

**BY ADVS.SRI.PRAVEEN K. JOY
SRI.TA.JOY**

RESPONDENT(S):

- 1. STATE OF KERALA, REP. BY ITS SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
TRIVANDRUM - 695 001.**
- 2. THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
TRIVANDRUM - 695 001.**
- 3. THE SECRETARY,
PERUMBAVOOR MUNICIPALITY, PERUMBAVOOR,
ERNAKULAM - 682 054.**
- 4. PERUMBAVOOR MUNICIPALITY,
REP. BY ITS SECRETARY, PERUMBAVOOR,
ERNAKULAM - 682 054.**

**R1 & 2 BY GOVERNMENT PLEADER SMT.K.A. SANJEETHA
R3 & 4 BY SRI.V.M.KURIAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - THE TRUE PHOTOCOPY OF THE REVISED PLAN OF BUILDING PERMIT DT. 19.09.2014.**
- P2 - THE TRUE PHOTOCOPY OF THE TAX RECEIPT NO. 8014 DT. 20.5.2015.**
- P3 - THE TRUE PHOTOCOPY OF THE TAX RECEIPT NO. 8015 DT. 20.5.2015.**
- P4 - THE TRUE PHOTOCOPY OF THE TAX RECEIPT NO. 8016 DT. 20.5.2015.**
- P5 - THE TRUE PHOTOCOPY OF THE TAX RECEIPT NO. 8017 DT. 20.5.2015.**
- P6 - THE TRUE PHOTOCOPY OF THE TAX RECEIPT NO. 7995 DT. 18.5.2015.**
- P7 - THE TRUE PHOTOGRAPHS OF THE BUILDING OF THE PETITIONER.**
- P8 - THE TRUE PHOTOCOPY OF THE APPLICATION FOR REGULARIZATION OF THE TRESS WORK DONE.**
- P9 - THE TRUE PHOTOCOPY OF THE NOTICE DT. 23.7.2015.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

W.P.(C)No.23872 of 2015

Dated this the 21st day of August, 2015.

J U D G M E N T

The petitioner is seeking a direction to the respondents to consider Ext.P8 application for regularisation of construction of tress work within a time frame fixed by the respondent.

2. The petitioner has already obtained building permit from the 4th respondent for construction of building in land at Perumbavoor. The petitioners have constructed the building in terms with the building permit issued by Perumbavoor Municipality and building has been numbered as XVII/1043-A, B, C, D, E, F, G, H, I, J, in one floor and other floor has been numbered as XVII/1043-A1, A2, A3, A4, A5, A6, A7, A8, A9, A10 and XXI/1200-A10. The building construction was commenced and completed and thereafter the building has been numbered as XVII/1043-A, B, C, D, E,

F, G, H, I, J in one block. It is further stated that the further floor has been numbered as XVII/1043-A1, A2, A3, A4, A5, A6, A7, A8, A9, A10 and XXI/1200-A10. Thus the building of the petitioner for the shopping complex has already been numbered and tax was accepted by the respondent Municipality. It is stated that the ground floor and 1st floor of the building has already been numbered and tax also being remitted. The petitioner points out that to protect the building and shops from the rain, certain tress work was done, which has to be regularised by the Municipality. The construction of tress work has to be regularised. The petitioner approached the Municipality for such regularisation, as per the new government order. According to the petitioner, the entire building has been constructed only in terms of the building Rules and there was no violation. The petitioner is remitting the building tax in the petitioner's name. The building numbers issued based on the building permit No.BA 204/07-08 of the Municipality and

there is no violation of any Act or Rules for the constructed and completed building of the petitioner ; it is alleged. It is also alleged that the petitioner again approached for reconsideration of the entire matter with detailed representation before the 4th respondent. The petitioner points out that new Government order No.122/2014 dated 14.2.2014 also permits regularisation of all construction. The petitioner alleges that the 4th respondent has issued Ext.P9 notice without following any procedure and rules, and only because of some personal grudge. According to him, there is no specification of any violation and no hearing has been conducted. The entire proceedings under Ext.P9 is illegal and any matter could be regularised by the Municipality ; it is alleged. If any demolishing of building or tress work is done, it would cause huge loss to the petitioner. It is with this backdrop the petitioner has approached this Court.

3. I have heard the learned counsel for the petitioner, the learned Standing counsel for the respondent Municipality and the learned Government Pleader in the matter.

As the learned counsel for the petitioner confined his argument to a limited prayer to consider Ext.P8 application for regularisation within a time frame, this writ petition is disposed of directing the respondent to consider Ext.P8 after affording the petitioner an opportunity of being heard, within one month from the date of receipt of copy of this judgment. It is hereby made clear that the present state of affairs shall continue till final orders are passed as above.

Sd/-
A.V.RAMAKRISHNA PILLAI,
Judge.

ami/

//True copy//

P.A. to Judge