

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 24282 of 2014 (I)

PETITIONER(S):

**VABDU RAHIMAN, AGED 50 YEARS,
S/O VELLEKAT MUHAMMED HAMSA,
RESIDING AT HOUSE NO 25/537, VELLEKAT HOUSE,
POOKKAYIL BAZAR P.O., TIRUR TALUK,
MALAPPURAM DISTRICT - 676 107.**

BY ADV. SRI.AYYAPPAN SANKAR

RESPONDENT(S):

- 1. TIRUR MUNICIPALITY,
REPRESENTED BY SECRETARY, TIRUR,
MALAPPURAM DISTRICT - 676 101.**
- 2. THE SECRETARY,
TIRUR MUNICIPALITY, TIRUR, MALAPPURAM DISTRICT - 676 101.**

BY ADV. SRI.P.K.VIJAYAMOHANAN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 24282 of 2014 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE PHOTOCOPY OF THE APPLICATION FOR BUILDING PERMIT
SUBMITTED ON 03-07-2012.**

EXHIBIT P2: TRUE PHOTOCOPY OF THE SALE DEED NO 1012/2012 OF TIRUR S.R.O.

**EXHIBIT P3: TRUE PHOTOCOPY OF THE DATA BANK OF PADDY LANDS AND WEST
LANDS IN TIRUR MUNICIPALITY.**

**EXHIBIT P4: TRUE PHOTOCOPY OF THE POSSESSION CERTIFICATE
DATED 08-05-2012 ISSUED FROM THE VILLAGE OFFICE, TIRUR.**

**EXHIBIT P5: TRUE PHOTOCOPY OF THE SITE PLAN SUBMITTED ALONG WITH
EXHIBIT P1 APPLICATION.**

**EXHIBIT P6: TRUE PHOTOGRAPHS (2 NUMBERS) SHOWING PETITIONER'S
PROPERTY AND ADJACENT COMMERCIAL BUILDINGS.**

**EXHIBIT P7: TRUE PHOTOCOPY OF THE ORDER DATED 25-06-2014 ISSUED BY THE
2ND RESPONDENT FINALLY REJECTING EXHIBIT P1 APPLICATION FOR
BUILDING PERMIT.**

**EXHIBIT P8: TRUE PHOTOCOPY OF THE JUDGMENT DATED 19-08-2009 OF THIS
HON'BLE HIGH COURT RENDERED ON SIMILAR FACTS IN SHAHANAZ
SHUKKOR V CHELANNUR GRAMA PANCHAYAT REPORTED IN
2009 (3) KLT 899.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.M.SHAFFIQUE, J

*** * * * ***

W.P.C.No.24282 of 2014

Dated this the 15th day of January 2015

J U D G M E N T

Petitioner has approached this Court seeking for a direction to the 2nd respondent to consider Ext.P1 application afresh in the light of the facts revealed in Ext.P3 data bank particulars.

2. The facts involved in the writ petition would disclose that Ext.P1 application was dismissed by the 2nd respondent Municipality by Ext.P7 on the ground that the property is described as 'Nanja' in the possession certificate issued by the Village Officer, Tirur. Petitioner relies upon the data bank entries made by the Local Level Monitoring Committee which indicates that the property is a converted land about 15-20 years back.

3. Counter affidavit has been filed on behalf of the respondents inter alia stating that in so far as the property is described as paddy land in the possession certificate, the application was rejected.

4. It is the settled position of law that after the Kerala Conservation of Paddy and Wet Land Act, 2008 coming into force, while considering an application for building permit, the local authority will have to verify the data bank particulars and also conduct a site inspection to verify the nature of the property. The entries in the possession certificate apparently is based on the entry available in the village records namely the basic tax register, which by itself will not prove the actual nature of land, as over a period of time, there might be change in the nature of land on account of conversion or other reasons. Having regard to the aforesaid factual issues involved in the matter especially in the light of Ext.P3 particulars available in the data bank entries, I am of the view that the matter requires to be considered afresh by the respondent Municipality.

Accordingly, this writ petition is allowed. There will be a direction to the respondents to consider Ext.P1 application afresh and pass appropriate orders taking note of Ext.P3

data bank particulars and after conducting necessary site inspection in the matter. This shall be done within a period of one month from the date of receipt of a copy of this judgment.

(sd/-)

(A.M.SHAFIQUE, JUDGE)

jsr

