

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. 24791 of 2015 (Y)

PETITIONER(S):

1. MOTHER HOSPITALS (P) LTD.,
PULLAZHI P.O., OLARI, THRISSUR - 680 012.
2. DR.P.A.ABDUL HAKKIM,
DIRECTOR, MOTHER HOSPITALS (P) LTD., PULLAZHI P.O.,
OLARI, THRISSUR - 680 012.

**BY ADVS.SRI.K.K.CHANDRAN PILLAI (SR.)
SRI.ARUN ANTONY
SMT.S.AMBILY
SMT.K.V.SHENU**

RESPONDENT(S):

1. THE THRISSUR CORPORATION,
REPRESENTED BY ITS SECRETARY, THRISSUR - 680 001.
2. THE SECRETARY,
THRISSUR CORPORATION, THRISSUR - 680 001.

**BY ADVS. SRI.K.P.VIJAYAN
SRI.V.N.HARIDAS**

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

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : COPY OF THE PERMIT ISSUED TO THE PETITIONERS BY THE RESPONDENTS
DATED 16-10-2003.**

P2 : COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 24-10-2009

**P3 : COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS TO THE
RESPONDENT DATED 11-11-2009.**

**P4 : COPY OF THE REPRESENTATION GIVEN TO THE 2ND RESPONDENT
DATED 11-5-2015.**

**P5 : COPY OF THE COMMUNICATION ISSUED BY THE RESPONDENT TO THE
PETITIONER DATED 15-7-2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Ms v/

A.V.RAMAKRISHNA PILLAI, J.

W.P.(C)No.24791 of 2015

Dated this the 21st day of August, 2015.

J U D G M E N T

The petitioners seek a direction to the 2nd respondent to consider Ext.P4.

2.The 1st petitioner is a company registered under the Companies Act of which the 2nd petitioner is one of the Directors. The petitioners allege that the 1st petitioner is a reputed hospital in Thrissur, which is at present having facility to treat 400 patients as inpatients and is having all specialties headed by very reputed and qualified Doctors. The hospital is situated in an area of about 7 acres of property. In 2001 for expansion/development of the hospital, the petitioners applied for construction of a building with ground floor, 1st floor, 2nd floor and 3rd floor. The permit was issued. However, the construction was not undertaken. In 2003, the petitioners applied for revised

permit for construction upto 6th floor. it was granted as per Ext.P1. In view of emergency need, construction upto 3rd floor was completed and occupancy certificate was applied for with completion certificate. This was granted and the building was assessed and the same was being occupied for the hospital. In the meanwhile extension was obtained in 2006. Thereafter, since there was no urgent need, the construction is proceeded at a slow pace. In 2009, the petitioners applied for renewal of the permit which was rejected stating that 9 years period is over when the period is reckoned from the date of the first permit. This was objected to by the petitioners and they represented again which was agreed to be considered. On that basis, construction was continued and construction was almost over by 2012. The petitioners submitted completion plan for occupancy certificate which were refused to be accepted again stating the same reason. Thereafter, the petitioners were before the respondents pointing out the illegality and

requesting for reconsideration. However it was not reconsidered. Ultimately, Ext.P4 was given and subsequent reminder also was given. Even without going through the illegality of the contentions contained in Ext.P4, Ext.P5 was passed by an incompetent authority on the second day of submission of the reminder ; it is alleged. The petitioner pointed out that the building is completed and the hospital is in urgent need for occupying the same. The area is remaining idle. The petitioners cannot afford to meet the need of the patients and the need for expansion and development. It is with this backdrop the petitioners have approached this Court.

2. I have heard the learned senior counsel for the petitioners, the learned Standing counsel and the learned Government Pleader in the matter.

3. The learned senior counsel for the petitioner points out that solely on account of the illegality committed by the respondents, ie., in rejecting the application for the

extension that the present situation has arisen. Had the request been accepted in time, the petitioners could have used the building from 2012 onwards. Therefore, I see valid force in the submission made by the senior counsel for the petitioners.

Considering the nature of submissions made and the reliefs sought for, this writ petitions is disposed of quashing Exts.P2 and P5 and directing the respondent Corporation to re-consider Ext.P4 afresh, after affording the petitioners an opportunity of being heard to dispose of the same, within a period of one month of receipt of copy of this judgment.

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

ami/

//True copy//

P.A. to Judge