

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

WP(C).No. 24969 of 2015 (U)

PETITIONER(S) :

**GOPAKUMAR, AGED 44 YEARS,
S/O.KUTTYKRISHNAN NAIR, RESIDING AT PAVIZHAMALLI,
VADAVANNUR, PALAKKAD- 678 504.**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU**

RESPONDENT(S) :

**CHITTUR - THATHAMANGALAM MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, CHITTUR P.O.,
PALAKKAD- 678 101.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 24969 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICE,
CHITTUR TO THE PETITIONER DATED 29/06/2015.**
- P2: TRUE COPY OF THE ORDER PASSED BY THE RESPONDENT TO
THE PETITIONER DATED 28/07/2015.**
- P3: TRUE COPY OF THE JUDGMENT IN W.P(C).NO.18776/2014 OF THE FILE OF
THIS HONOURABLE COURT DATED 22/07/2014.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 24969 of 2015

Dated this the 4th day of September, 2015

J U D G M E N T

Ext.P2, by which the petitioner's application for building permit was rejected, is under challenge.

2. The petitioner is the owner in possession of an extent of 0.0272 hectares of land comprised in Re-Sy. No.13/3PT of Chittur Village in Palakkad District within the local limits of the respondent municipality. The petitioner submitted an application seeking permit for constructing a residential building, which was rejected as per Ext.P2 stating that the area has been included in the master plan. According to the petitioner, the stand taken by the municipality is in gross violation of the dictum laid down by the apex court as well as this Court. He points out that the adjacent properties are put to use for construction purposes, for which the municipality has already granted building permits. Therefore, according

..2..

to the petitioner, the rejection of building permit on the basis of the inclusion of the property in the master plan ignoring the actual state of affairs is unfair and illegal. It is with this background, the petitioner has approached this Court.

3. Arguments have been heard.

4. The learned Standing Counsel for the respondent municipality opposed the application pointing out that the area is included in the master plan.

5. The learned counsel for the petitioner 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

..3..

Constitution. Viewed in that profile, this Court is of the view that the petitioner is entitled to get the reliefs prayed for.

Therefore, the writ petition is allowed.

Ext.P2 is quashed and the respondent municipality is directed to reconsider petitioner's application for building permit and to pass positive orders within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-