

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. 25738 of 2015 (N)

PETITIONER(S):

**MUHAMMED HAJI, AGED 73 YEARS,
S/O.MOIDEENKUTTY HAJI, VALAPRA HOUSE,
THOTTILANGADI, KAVANOR, MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S):

- 1. THE DISTRICT TOWN PLANNER,
MALAPPURAM.**
- 2. THE KAVANOR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, KAVANOR,
MALAPPURAM DISTRICT.**

R1 BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

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

PJ

WP(C).No. 25738 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE ACKNOWLEDGMENT SHOWING THE RECEIPT OF
THE APPLICATION FOR BUILDING PERMIT BY THE 2ND RESPONDENT**

**EXHIBIT P2: TRUE COPY OF THE SITE PLAN SHOWING THE PROPOSED
CONSTRUCTION.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

W.P.(C)No.25738 of 2015

Dated this the 21st day of August, 2015.

J U D G M E N T

The petitioner seeks a direction to the 1st respondent to consider his application for building permit.

2. The petitioner is a senior citizen and he wanted to conduct a saw mill, which is a small scale industrial unit. For the purpose of constructing the saw mill, the petitioner wanted to erect the sheds for which building permit is required. The total area of the proposed construction is 68.13 sq.mtrs. Therefore, the petitioner had made an application to the 2nd respondent, for the issue of building permit on 19.2.2015. As per Rule 59/27 of the Kerala Panchayat Building Rules, approval of the District Town Planner is required to be obtained in the case of buildings under Group G2 category upto 1000 sq.mtrs. in area. The petitioner's proposed construction is only 68.13 sq.mtrs.

area. The application for building permit submitted by the petitioner was forwarded to the 1st respondent by the 2nd respondent. Ext.P2 is the site plan showing the proposed construction. The access road is having an average width of 3.5 mtrs. every where from the main road, and the requirement of access road for the industrial occupancy under G2 upto 300 sq.mtrs. is only 3 mtrs., and the access road to the industrial unit of the petitioner is much more than that ; it is alleged. However, the 1st respondent had taken a stand that the access road should have the width of 4 mtrs. and on that ground, though the application was forwarded way back in February, 2015, for the last 6 months, the same has not been approved by the 1st respondent ; it is alleged. It is with this backdrop, the petitioner has approached this Court.

3. I have heard the learned counsel for the petitioner and the learned Government Pleader in the matter.

4. The allegation raised by the petitioner is that, no order has been passed by the 1st respondent after a lapse of so many months. It was also pointed out that the access road is having an average width of 3.5 mtrs. every where from the main road and the requirement of access road for the industrial occupancy under G2 upto 300 sq.mtrs. is only 3 meters. However, as this Court feels that the writ petition can be disposed of directing the 1st respondent to consider the petitioner's application within a time frame, it shall be open to the petitioner to bring the aforesaid question of law before the 1st respondent.

In the result, this writ petition is disposed of directing the 1st respondent to consider the petitioner's application for building permit which has been forwarded to him, within one month of receipt of copy of this judgment, after affording the petitioner an opportunity of being heard and also taking into account the question of law raised by the

petitioner.

To facilitate an early action, it shall be open to the petitioner to produce a copy of the writ petition as well as a copy of this judgment before the 1st respondent at the earliest.

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

ami/

//True copy//

P.A. to Judge