

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WP(C).No.26477 of 2014 (H)

PETITIONER:

**SIVAKUMAR.P.C,S/O.CHODALAMUTHU CHETTIYAR,
REMYA,5/30,PUTHUR,PALAKKAD.**

**BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA**

RESPONDENT'S:

- 1. THE PALAKKAD MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE,PALAKKAD-678001.**
- 2. THE SECRETARY,PALAKKAD MUNICIPALITY,
PALAKKAD-678001.**
- 3. DISTRICT TOWN PLANNER,
OFFICE OF THE DISTRICT TOWN PLANNER,
PALAKKAD-678001.**

**R1 & R2 BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU
R3 BY GOVT. PLEADER SMT.K.A.SANJEETHA.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.26477 of 2014 (H)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1:TRUE COPY OF THE DOCUMENT NO.2484/2004 OF SRO PALAKKAD.

EXHIBIT P2:TRUE COPY OF THE DOCUMENT NO.2529/2013 OF SRO PALAKKAD.

EXHIBIT P3:TRUE COPY OF THE DOCUMENT NO.3896/2010 OF SRO PALAKKAD.

**EXHIBIT P4:TRUE COPY OF THE NOTICE ISSUED BY THE R2 DT.7-7-2014 TO THE
PETITIONER.**

EXHIBIT P5:TRUE COPY OF THE NOTICE DT.13-8-2014.

EXHIBIT P6:TRUE COPY OF THE LETTER DT.12-9-2014 ISSUED BY R2.

**EXHIBIT P7:TRUE COPY OF THE JUDGMENT IN WPC 16463/2010 RENDERED BY
THIS HON'BLE COURT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 26477 of 2014

Dated this the 30th day of June, 2015.

JUDGMENT

Ext.P6, by which the petitioner's application for building permit was rejected, is under challenge.

2. The petitioner who is the absolute owner in possession of land, had submitted application for a building permit for construction of a residential cum commercial building. The second respondent had directed the petitioner to submit a revised plan setting apart the area for road widening. The petitioner alleges that since the widening is part of an obsolete scheme, he need not set apart any space for the same. Now the second respondent had rejected the application pointing out that the petitioner had not left enough space for road widening. There is absolutely no rhyme and reason in the impugned order; it is alleged. The petitioner alleges that he need not set apart any space for road widening which is

contemplated in a town planning scheme which is in papers for the last 28 years and the second respondent had informed the petitioner that the application for building permit cannot be considered. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. 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 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.P6 is set aside and the respondent municipality is directed to reconsider petitioner's application for building permit within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.