

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 26398 of 2015 (y)

PETITIONER:

**PRAVEEN.S.S, AGED 40 YEARS
S/O.R.SADASIVAN, RESIDING AT GEETHAGIRI,
T.C.26/2134
C-10, STATU ROAD,
THIRUVANANTHAPURAM.**

BY ADV. SRI.T.RAJASEKHARAN NAIR

RESPONDENTS:

- 1. THIRUVANANTHAPURAM CORPORATION
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE
MUSEUM JN,
THIRUVANANTHAPURAM 695 001.**
- 2. THE CHIED TOWN PLANNER
OFFICE OF THE CHIEF TOWN PLANNER,
SWARAJ BHAVAN
NANDANCODE,
THIRUVANANTHAPURAM 695 001.**

**R1 BY ADVS. SRI. N. NANDAKUMARA MENON (SR.)
SRI.P.K.MANOJKUMAR, SC, TVPM CORPORATION
R2 BY SR. GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- A TRUE PHOTOCOPY OF THE SALE DEED EXECUTED IN FAVOUR OF THE PETITIONER**
- P2- A TRUE PHOTOCOPY OF THE PROPERTY TAX RECEIPT FOR THE YEAR 2014-15 ISSUED BY THE VILLAGE OFFICER IN RESPECT OF THE ABOVE LAND**
- P3- A TRUE PHOTOCOPY OF THE APPLICATION FOR PERMIT SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT**
- P4- A TRUE PHOTOCOPY OF THE COMMUNICATION ISSUED BY THE LOCAL SELF GOVERNMENT DEPARTMENT TO THE PETITIONERS FATHER**
- P5- A TRUE PHOTOCOPY OF THE COMMUNICATION 19.6.2015 ISSUED BY THE 2ND RESPONDENT TO 1ST RESPONDENT**
- P6- THE TRUE PHOTOCOPY OF THE PHOTOGRAPHS IN RESPECT OF THE LAND**

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 26398 OF 2015

Dated this the 09th day of November, 2015

JUDGMENT

The petitioner filed Ext.P3 application for building permit. He wanted to construct a building of 126.87 square meters in plinth area. The Government by Ext.P4 letter informed the petitioner that there was no necessity to obtain exemption from zoning regulations. This was because the proposed site did not fall in the sanctioned master plan. The petitioner has now been served with Ext. P5 order on the application for building permit. The same reflects that permission has been granted only to construct a building of 50 square meters in plinth area.

2. The second respondent who is the Chief Town Planner has filed a counter affidavit to the writ petition. It is stated therein that the plot in question is a filled up land as reported by the District Town Planner. The second respondent contends that a zoning regulation is in vogue as per the Kerala Town and Country Planning

Ordinance, 2015. Only a building up to 50 square meters can be permitted to be constructed since the land in question is included in the paddy list. Whether the property falls in the sanctioned master plan or not is a matter for deeper scrutiny. Ext.P4 letter categorically says that the proposed site did not fall in the sanctioned master plan. But a contrary stand is taken in the counter affidavit to the effect that the property is within the sanctioned master plan. It is also understandable how a filled up land could be included in the paddy list for the planning purpose of the Kerala Town and Country Planning Ordinance, 2015. Inconsistent stands are taken in the orders and in the counter affidavit filed by the second respondent in the writ petition.

3. I quash Ext.P5 order in so far it limits the building permit to 50 square meters. I direct the first respondent to reconsider the application for building permit after obtaining necessary inputs from the second respondent. The petitioner shall be put on notice and heard in the exercise. Final orders shall be passed within

a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS