

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 28661 of 2015 (G)

PETITIONER(S):

**M. RAMESH, AGED 37 YEARS
S/O.MARIYAPPAN, 27/315, L.P.MADOM
PALLIPPURAM P.O., PALAKKAD.**

**BY ADVS.SRI.S.KANNAN
SMT.S.SIMY
SMT.K.S.SANGEETHA**

RESPONDENT(S):

**PALAKKAD MUNICIPALITY
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE
PALAKKAD-678001.**

**R1 BY ADV. SRI.T.C.SURESH MENON
R1 BY ADV. SRI.P.S.APPU**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, PALAKKAD - I IN FAVOUR OF THE PETITIONER.
- EXT.P2:** COPY OF THE CERTIFICATE DATED 11.03.2011 ISSUED BY THE VILLAGE OFFICER, PALAKKAD - I.
- EXT.P3:** COPY OF NOTICE DATED 01.06.2015 ISSUED BY THE RESPONDENT REJECTING APPLICATION OF THE PETITIONER FOR BUILDING PERMIT.

RESPONDENT(S)' EXHIBITS: NIL

//True copy//

P.A. to Judge

ds

P.BHAVADASAN, J.

W.P.(C) No. 28661 of 2015

Dated this the 28th day of September, 2015

J U D G M E N T

Unfortunate is the fate of the petitioner, who wants to put up a building in his property owned by him, which has an extent of 7.50 cents comprised in Survey No. 1465 and 1472 of Palakkad - I Village which he acquired as per document No.1564/2014 dated 12.03.2014 of SRO Palakkad. It is pointed out in the petition that the predecessor-in-interest of the petitioner had submitted an application for permission to put up a structure and Revenue Divisional Officer, Palakkad had issued a certificate with respect to the property. Later on, before she actually put up the structure, the property was assigned to the petitioner. The certificate so issued by the authority concerned is produced as Ext.P2. By Ext.P3 order dated 01.06.2015, an application of the petitioner for construction was rejected on the ground that his property

falls within the unauthorized plot division and as per the prescribed District Town Planning Scheme of Palakkad District, a road with 7 meters breadth is proposed to be constructed through the property of the petitioner. The petitioner points out that Ext.P3 order is illegal, improper and unsustainable in law.

2. The petitioner relies on various decisions referred to in the petition and also the latest decision of this Court in **Havva T.P. And Others v. Tirur Municipality and Another** (2015 (4) KLT 110) wherein, an identical question was considered. This Court as well as the Apex Court has maintained a consistent stand that proposed schemes are not a ground to reject the application for building permit, if they are otherwise in accordance with law and in terms of the rules concerned for putting up of structures.

If that be so, Ext.P3 order is clearly unsustainable in law. Hence, the impugned order is set aside and the respondent is directed to reconsider the application on

merits in accordance with law and in the light of principles laid down in the decisions referred to by the petitioner in this petition within a period of 15 days from the date of receipt of a copy of this judgment.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge