

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 31692 of 2013 (J)

PETITIONERS:

- 1. K.SUKUMARAN AGED 60 YEARS
S/O. APUKKUTTAN, METHILTHODE HOUSE
VAIDIARANGADI.P.O., RAMANATTUKARA, KOZHIKODE-673633.**
- 2. M. SUNANDA, AGED 53 YEARS
W/O. K. SUKUMARAN, METHILTHODE HOUSE
VAIDIARANGADI.P.O., RAMANATTUKARA, KOZHIKODE-673633.**

**BY ADVS.SRI.P.R.SREEJITH
SRI.M.PROMODH KUMAR**

RESPONDENT(S):

- 1. RAMANATTUKARA GRAMA PANCHAYATH
RAMANATTUKARA.P.O. KOZHIKODE DISTRICT-673633.
REPRESENTED BY THE SECRETARY**
- 2. THE SECRETARY
RAMANATTUKARA GRAMA PANCHAYATH, RAMANATTUKARA.P.O.
KOZHIKODE DISTRICT-673633.**
- 3. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.**

R BY GOVERNMENT PLEADER SRI RAFAEEK.V.K

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P1. A TRUE COPY OF THE PETITIONERS BUILDING PERMIT NO. BL-496/04-05 DATED 14-3-2005 FOR AN ADDITIONAL CONSTRUCTION OF THE EXISTING SHOP BUILDING NO. 1/464/A.**
- EXT. P2. A TRUE COPY OF THE 2ND RESPONDENTS PROVISIONAL ORDER AND NOTICE DATED 9-11-2011.**
- EXT. P3. A TRUE COPY OF THE 1ST PETITIONER REPLY DATED 28-11-2011 TO EXT.P2.**
- EXT. P4. A TRUE COPY OF THE 2ND RESPONDENTS ORDER DATED 25-4-2013 CONFIRMING THE EXT.P2 PROVISIONAL ORDER.**
- EXT. P5. A TRUE COPY OF THE 3RD RESPONDENTS ORDER DATED 11-10-2011 REJECTING REGULARIZATION OF THE BUILDING.**
- EXT. P6. A TRUE COPY OF THE ORDER DATED 8-11-2013 APPEAL NO. 461/2013 OF TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS THIRUVANANTHAPURAM.**
- EXT. P7. A TRUE COPY OF THE PETITIONERS REVIEW PETITION DATED 15-12-13 BEFORE THE 3RD RESPONDENT.**
- EXT.P8 COPY OF THE PETITIONER'S APPLICATION DATED 18-11-2014 TO THE 3RD RESPONDENT FOR REGULARIZATION OF HIS EXT.P1 BUILDING ALONG WITH THE INDEX OF DOCUMENTS ANNEXED AND THE RECEIPT OF APPLICATION AND FEE**

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

P.A TO JUDGE

SMM

A.V.RAMAKRISHNA PILLAI,J

.....
W.P.C. No.31692 of 2013

.....
Dated this the 13th day of March, 2015.

J U D G M E N T

Aggrieved by the action initiated by the respondent Panchayath for demolition of auditorium and the allied building constructed by the petitioners, the petitioners have come up before this Court.

2. The petitioners are the owners of 37.88 cents of property in Re.Sy.No.501/2B of Ward No.1 of Ramanattukara Grama Panchayath. As per Ext.P1 building permit, the construction of a two storied commercial building altering the existing ground floor and additional construction on the ground floor and the first floor were permitted. The petitioners constructed the building and filed completion certificate and applied for necessary occupancy certificate. The petitioners allege that respondents 1 and 2 did not issue any intimation allowing

occupancy within the time limit. Later, the 2nd respondent issued a provisional order and notice under Section 235 (W) (1) and (2) of the Kerala Panchayath Raj Act alleging that the construction was carried out in deviation of the plan approved for commercial occupancy and the building lacked necessary set back and coverage for assembly occupancy.

3. Consequently, the first petitioner applied for regularization of the construction. No further action was initiated. Later another order was issued by the 2nd respondent confirming the previous provisional order. The petitioners challenged Ext.P4 and P5 orders before the Tribunal for Local Self Government Institutions in Appeal No.461/2013, which was rejected as per Ext.P6. The Tribunal was of the view that in view of Ext.P5 rejection by the Government, it is only to be concluded that the construction effected by the petitioners was unauthorized. Facing impending action against the building, the petitioners have now preferred Ext.P7 revision under Rule 7 of the Kerala Building (Regularization of Unauthorized

Construction) Rules, 2010. Now the petitioners submitted Ext.P8 in the wake of G.O(MS)No.150/2014/LSGD dated 21-8-2014 published in the extraordinary gazette dated 27-8-2014 as per Rule 1(3). The rules apply to all unauthorized construction carried out on or before 31-3-2013 in Grama Panchayath area in the State. The learned Counsel for the petitioner submits that a direction be issued to the Government to consider Ext.P8 in the light of the amended rules.

Therefore, the writ petition is disposed of directing the third respondent to consider Ext.P8 application for regularization in the light of the notification referred to above after affording the petitioners an opportunity of being heard. This shall be done within a period of six months from the date of receipt of a copy of this judgment.

Sd/-

**A.V.RAMAKRISHNA PILLAI,
JUDGE**

smm

