

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WP(C).No. 29224 of 2015 (C)

PETITIONER :

**KATTOOR RAJAMMA, W/O.ARUN KUMAR,
AGED 54 YEARS, NO OCCUPATION,
RESIDING AT NATYALA HOUSE, NEAR PARAKANDY SCHOOL,
KANNUR -670 001, KANNUR DISTRICT.**

BY ADV. SRI.R.SURENDRAN

RESPONDENT(S):

- 1. THE SECRETARY,
THALASSERY MUNICIPALITY, THALASSERY P.O.,
KANNUR DISTRICT -670 101.**
- 2. THE THALASSERY MUNICIPALITY,
REPRESENTED BY THE SECRETARY,
THALASSERY MUNICIPALITY, THALASSERY P.O,
KANNUR DISTRICT -670 101.**
- 3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM -695 001.**

**R1 & R2 BY SRI.I.V.PRAMOD
R3 BY SR GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 29224 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - TRUE COPY OF RELEASE DEED DATED 29.7.2013 EXECUTED BY SAUDAMINI AND SREENIVASAN REGISTERED AS DOCUMENT NO.1431 OF 2013 OF SRO THALASSERY.
- P2 - TRUE COPY OF BASIC TAX RECEIPT DATED 20.4.2015 IN RESPECT OF THE PROPERTY OWNED AND POSSESSED BY THE PETITIONER.
- P3 - TRUE COPY OF ORDER DATED 25.8.2015 IN BUILDING APPLICATION NUMBER E5/BA/333/15-16 ISSUED BY THE SECOND RESPONDENT REJECTING THE APPLICATION FOR APPROVAL OF BUILDING SITE AND GRANT OF BUILDING CONSTRUCTION PERMIT ALONG WITH REJECTED SITE PLAN.
- P4 - TRUE COPY OF THE JUDGMENT DATED 11.06.2014 IN WPC. NO.14120 OF 2014
- P5 - TRUE COPY OF THE JUDGMENT DATED 12.08.2015 IN WPC NO.22672 OF 2015

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K.HARILAL, J.

W.P.(C) No.29224 of 2015

Dated this the 25th day of November, 2015.

JUDGMENT

The matter in issue involved in this writ petition is whether the building permit can be denied on the ground of a mere proposal for road widening.

2. The learned counsel for the petitioner submits that the said issue has been decided in Exts.P4 & P5 judgments accepting the contentions raised by the petitioner in this writ petition. The learned Standing Counsel appearing for the respondents 1 and 2 fairly agrees with the said submission. Going by Ext.P3, it is seen that the building permit was denied on the reason that as per DTP Scheme, 2007, the survey number of the petitioner's property is included in "Mixed residential and commercial zone" and there is a proposal for widening of the road through the petitioner's property. The principle that can be

culled out in the above judgments is that building permit cannot be denied on a mere proposal of road widening only.

3. In view of the submissions made at the Bar and in the light of Exts.P4 & P5 judgments, Ext.P3 will stand set aside and the respondents 1 and 2 are directed to reconsider the petitioner's application seeking building permit, in the light of Exts.P4 & P5 judgments and pass orders thereon at the earliest, at any rate, within a period of one month from the date of production of a copy of this judgment.

This writ petition is allowed accordingly.

Sd/-
K. HARILAL, JUDGE

okb.