

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).No. 29284 of 2015 (I)

PETITIONERS:

- 1. SBT OFFICERS' HOUSING CO-OPERATIVE SOCIETY LTD. NO.T.1325
BNI BUILDING, STATUE, THIRUVANANTHAPURAM
REPRESENTED BY SECRETARY, MATHEW M.P,
AGED 57 YEARS, S/O.P.K.MATHEW.**
- 2. TRAVANCORE BANK OFFICERS EDUCATIONAL SOCIETY NO.T.1830/11
BNI BUILDING, STATUE, THIRUVANANTHAPURAM
REPRESENTED BY SECRETARY MATHEW M.P.**

**BY ADVS.SRI.RENJITH THAMPAN (SR.)
SMT.P.R.REENA**

RESPONDENTS:

- 1. CHIEF TOWN PLANNER
O/O. THE CHIEF TOWN PLANNER
THIRUVANANTHAPURAM - 695 033.**
- 2. THIRUVANANTHAPURAM CORPORATION
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE
THIRUVANANTHAPURAM - 695 033.**

**R1 BY SR. GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN
R2 BY SRI.P.K.MANOJKUMAR,SC,TVPM CORPORATION**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE COMMUNICATION DATED 11.3.14 OF THE CORPORATION.**
- EXHIBIT P2. COPY OF THE RELEVANT PAGES OF DRAFT MASTER PLAN OF THIRUVANANTHAPURAM.**
- EXHIBIT P2(a). COPY OF THE ANNEXURE 22.2 OF EXHIBIT P2 PLAN.**
- EXHIBIT P2(b). COPY OF THE PROPOSED LAND USED SKETCH AS PER EXHIBIT P2 MASTER PLAN.**
- EXHIBIT P3. COPY OF THE JUDGMENT IN WPC 8060/14 DATED 3.7.14.**
- EXHIBIT P3(a). COPY OF THE JUDGMENT IN RP 908/14 DATED 20.11.14.**
- EXHIBIT P4. COPY OF THE GOOGLE MAP SHOWING PETITIONERS PROPERTY AS WELL AS EIGHT HIGH RISE BUILDINGS WITHIN THE AREA OF 500 METERES RADIUS.**
- EXHIBIT P4(a). COPY OF THE GOOGLE MAP SHOWING PETITIONERS PROPERTY AND THE APARTMENTS AND RESIDENTIAL HOUSES IN THE AREA.**
- EXHIBIT P5. COPY OF THE LETTER DATED 29.5.15 TO THE CHIEF TOWN PLANNER.**
- EXHIBIT P6. COPY OF THE LETTER DATED 13.8.15 OF IST RESPONDENT.**
- EXHIBIT P7. COPY OF THE LETTER DATED 9.9.15 OF THE CORPORATION**
- EXHIBIT P8. COPY OF THE PROCEEDINGS OF THE IST RESPONDENT DATED 18.9.15.**
- EXHIBIT P9. COPY OF THE JUDGMENT REPORTED IN 2014 KHC 2517.**
- EXHIBIT P10. COPY OF THE SKETCH SHOWING LOCATION OF PETITIONERS PROPERTY AND THE ADJACENT MOTORABLE ROADS.**
- EXHIBIT P11. COPY OF THE GAZETTE NOTIFICATION DATED 5.3.14.**
- EXHIBIT P12. COPY OF THE RULE CHART PREPARED BY THE CORPORATION AS REGARDS PETITIONERS PROPOSED BUILDING.**

RESPONDENT(S)' EXHIBITS:-

EXT. R1(a) & (b):- COPY OF THE PHOTOGRAPHS SHOWING THE NATURE OF THE CONSTRUCTIONS

EXT. R1(c):- COPY OF THE SKETCH

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 29284 OF 2015

Dated this the 16th day of November, 2015

JUDGMENT

The grant of building permit to the petitioners was the subject matter of W.P.(C.) No. 8060/2014 disposed of by Ext. P3 judgment. The judgment concluded as follows:-

“Respondents 2 and 3 are directed to conduct site inspection of the petitioner's property and adjacent properties, and on satisfaction that those properties are having multi-storeyed residential apartments, they shall grant the building permit to the petitioner, in view of Ext. P5 judgment”

This judgment was clarified in R.P. No. 908/2014 by Ext. P3(a) order which concluded as follows:-

“In the result, this review petition is disposed of making it clear that the site inspection directed to be conducted by the second respondent shall be confined to the petitioner's property as well as the properties in and around the said property.”

2. The Secretary of the second respondent Corporation thereafter issued Exts. P5 and P7 communications to the first respondent. Both the

communications reflect that the Secretary as well as the Executive Engineer of the second respondent Corporation conducted a site inspection of the property pursuant to Ext. P3 judgment and P3(a) order. The communications fortified the fact that there are no multi-storied buildings in and around the property of the petitioners where a housing flat is proposed to be constructed. The petitioners undertake that the structure proposed to be put up in the property will not be put for commercial use as is apprehended.

3. There is therefore no reason as to why residential apartments shall not be permitted to be constructed in the property when the communications reflect with the existence of houses nearby. Moreover the parties are bound by Ext.P3 judgment which directs the grant of permit in the absence of any high rise buildings and the existence of residential apartments. The first respondent was not justified in glossing over Exts. P5 and P7 communications and declining the building permit sought for by Ext. P8 order.

4. I quash Ext. P8 order enabling the second respondent to process the application for building permit put in by the petitioners. The second respondent is free to get the defects rectified in the plans submitted by the petitioners before granting final approval for the same. I make it clear that the second respondent need not await the sanction of the first respondent to pass final orders on the application for building permit put in by the petitioners. The proceedings shall be taken to a logical end 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