

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 30170 of 2015 (U)

PETITIONER(S):

- 1. SHIJITH K V, AGED 48 YEARS
S/O GOPALAN P.K., SAIPRASADAM, P.O.PALAYAD
DHARMADAM AMSOM, THALASSERY, KANNUR DISTRICT.**
- 2. JASHEENA K.M., AGED 37 YEARS
W/O SHIJITH K.V., SAIPRASADAM, P.O. PALAYAD
DHARMADAM AMSOM, THALASSERY, KANNUR DISTRICT.**

**BY ADVS.SRI.C.P.PEETHAMBARAN
SRI.T.JAGADEESH
SMT.MINI.V.A.**

RESPONDENT(S):

- 1. DHARMADAM GRAMA PANCHAYATH
REPRESENTED BY THE SECRETARY, DHARMADAM, PALAYAD P.O.
KANNUR DISTRICT.**
- 2. THE SECRETARY
DHARMADAM GRAMA PANCHAYATH, DHARMADAM, PALAYAD P.O.
KANNUR DISTRICT.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE REGISTERED GIFT DEED NO.510/1/2015 OF SRO, THALASSERY.

EXHIBIT P2: TRUE PHOTOGRAPH SHOWING THE PETITIONERS PROPERTY.

EXHIBIT P3: TRUE COPY OF THE SITE PLAN PRODUCED BY THE PETITIONERS ALONG WITH THE APPLICATION FOR BUILDING PERMIT.

EXHIBIT P4: TRUE COPY OF THE CERTIFICATE DATED 16.5.2015 ISSUED BY THE VILLAGE OFFICER, PALAYAD.

EXHIBIT P5: TRUE COPY OF THE ORDER DATED 23.9.2015 OF THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A TO JUDGE

LSN

ANU SIVARAMAN, J.

W.P.(C). No.30170 of 2015

Dated this the 16th day of December, 2015

JUDGMENT

The writ petition is filed challenging Ext.P5 order of the first respondent Panchayath rejecting petitioners application for construction of a commercial building in the property owned by him. The reason showed in Ext.P5 for the rejection of the application is that in the document produced by the petitioners, the property is shown as paddy land. Petitioners have produced Ext.P2 photographs to show that the property is reclaimed land and that there are coconut trees standing on it. The writ petitioners also relies on Ext.P4 certificate issued by the Village Officer to the effect that the property is not included in the draft data bank. Notice was ordered to the respondents on 19.10.2015 and was served and returned on 03.11.2015. There is no appearance for the respondents in this writ petition.

2. Heard learned counsel for the petitioners and learned Standing Counsel for the respondents.

3. It is contended by the petitioners that the

property is not included in the data bank and had been converted long prior to their acquisition of the same. It is also contended that the local authority had granted permits for construction of other buildings in properties in vicinity as the properties are not capable of being used for paddy cultivation.

This writ petition is disposed of directing the respondent Panchyath to take up and reconsider the application for building permit preferred by the petitioners in the light of Ext.P4 certificate. To enable such reconsideration, Ext.P5 order is set aside. The respondents shall conduct a site inspection to ascertain the present lie of the land and whether property is being put to use as paddy land. The respondents shall consider and pass orders as directed above within a period of one month from the date of receipt of a copy of this judgment. The petitioners shall produce a copy of this judgment along with a copy of writ petition before the respondents for compliance.

**Sd/-ANU SIVARAMAN,
Judge**