

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 30823 of 2015 (C)

PETITIONER:

DR P.A. ABDUL HAKKIM,
S/O.LATE P.K.AKBER ALI, AGED 57 YEARS,
RESIDING AT 2/58, CIVIL LANE ROAD, AYYANTHOLE,
THRISSUR -680 003.

BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU

RESPONDENTS:

1. THE THRISSUR CORPORATION
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,
THRISSUR - 680 001.
2. THE ASSISTANT EXECUTIVE ENGINEER,
THRISSUR CORPORATION, CORPORATION OFFICE,
THRISSUR - 680 001.

R1-R2 BY SRI.K.P.VIJAYAN, SC, THRISSUR CORPORATION.
R1-R2 BY ADV. SRI.V.N.HARIDAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P-1: TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICE, THRISSUR TO THE PETITIONER DATED 13.5.2015.
- EXT.P-2: TRUE COPY OF THE BUILDING PERMIT GRANTED TO MUHAMMED SALIM DATED 7.12.2013.
- EXT.P-3: TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 28.7.2015.
- EXT.P-4: TRUE COPY OF ONE SUCH PHOTOGRAPH WHICH SHOWS THE FACTUAL SITUATION PREVAILING DATED -NIL-.
- EXT.P-5: TRUE COPY OF THE JUDGEMENT IN WP(C) NO.13442/2014 ON THE FILE OF THIS HONOURABLE COURT DATED 5.8.2014.

RESPONDENTS' EXHIBITS: NIL.

// True Copy //

P.A to Judge.

smp

P.BHAVADASAN, J.

Writ Petition (Civil) No.30823 OF 2015

Dated this the 12th day of October, 2015.

J U D G M E N T

Indeed strange are the ways of the respondent-Corporation in dealing with the application for building permit.

2. The petitioner along with his wife owns and possesses 0.1780 hectares in Sy.No.1734/p of Thrissur Village in Thrissur Taluk. They had purchased the property from one Muhammed Salim on 10.01.2014. The vendor had earlier applied for building permit to construct a residential house in the land and the same was granted by the Corporation on 07.12.2013 and a true copy of the building permit so issued is produced as Ext.P2. The petitioner purchased the property from the said Muhammed Salim with an intention to put up residential building. He preferred an application before the respondent-Corporation.

3. To the utter dismay of the petitioner, by Ext.P3 order, the application submitted for building permit has been rejected. The reason given for rejecting the application is that in the

possession certificate, the said property is shown as 'nilam' and any construction done will be in contravention of the provisions of the relevant Act. The petitioner points out that no such objection was raised when the vendor has applied for permission to put up building. The reason given is not that the plinth area of the building which the petitioner is proposed to construct is more than the prescribed limit. But his application was rejected only for the reason that the property was shown as 'nilam' in the possession certificate.

4. Relying on the decisions in **Mohammed Abdul Basheer C.P vs. State of Kerala** (2012 (3) KLT 86), **Jalaja Dileep vs. Revenue Divisional Officer** (2012 (3) KLT 333) and in **Shahanaz Shukkoor vs. Chelannur Grama Panchayat** (2009 (3) KLT 899), learned counsel for the petitioner points out that Ext.P3 order cannot survive. Reliance was also placed on the decision in **Praveen vs. Land Revenue Commissioner** (2010 (2) KLT 617 (DB)).

5. This Court, in a similar case evidenced by Ext.P5 judgment, took the view that in such cases it is incumbent on the

part of the respondent to conduct a site inspection to ascertain the real nature of the property and application should not have been rejected on the ground that there is some entry in some revenue records showing that property is a 'nilam'.

6. A similar situation is obtained in the case on hand also. It is more precarious in this case because his vendor was granted permission to put up structure. There is no reason or justification for declining to grant permission to the petitioner.

Adopting the principles laid down in Ext.P5 judgment and in other decisions referred to in the petition, Ext.P3 order is quashed and the respondent-Corporation is directed to re-consider the application for building permit after conducting site inspection and taking note of the nature of the property in accordance with law and in the light of the decisions referred to above.

Sd/-

**P.BHAVADASAN
JUDGE**

smp