

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).NO. 32333 OF 2014 (N)

PETITIONER:

**S.MURALEEDHARAN, AGED 48 YEARS
S/O SADASIVAN, MURALEEDHARA VILASOM, KARAKONAM P.O.
THIRUVANANTHAPURAM.**

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

RESPONDENT(S):

- 1. KUNNATHUKAL SPECIAL GRADE GRAMA PANCHAYATH
KARAKONAM P.O., THIRUVANANTHAPURAM-695504
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY
KUNNATHUKAL SPECIAL GRADE GRAMA PANCHAYATH
KARAKONAM P.O., THIRUVANANTHAPURAM-695504.**
- 3. PALUKAL TOWN PANCHAYATH
PALUKAL, PALUKAL TOWN, KANYAKUMARI DISTRICT
TAMIL NADU-629 170
REPRESENTED BY ITS EXECUTIVE OFFICER.**

**R1,R2 BY ADV. SRI.C.E.UNNIKRISHNAN
R3 BY ADV. SRI.S.MOHANA KUMARAN NAIR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).NO. 32333 OF 2014 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE APPLICATION DATED 29.12.2012 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXHIBIT P2: TRUE COPY OF THE REPLY DATED 16.1.2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE REPRESENTATION DATED 29.1.2013 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE LETTER DATED 25.2.2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 29.4.2013 ALONG WITH NOC ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P6: TRUE COPY OF THE REPLY DATED 3.5.2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P7: TRUE COPY OF THE PETITION DATED 16.5.2013 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXHIBIT P8: TRUE COPY OF THE APPLICATION UNDER RIGHT TO INFORMATION ACT AND REPLY GIVEN THERE UNDER BY THE 2ND RESPONDENT.

EXHIBIT P9: TRUE COPY OF THE COMMISSIONER'S REPORT IN O.S.NO.465/2005 ON THE FILES OF DISTRICT MUNSIF'S COURT, KUZHITHURAI.

EXHIBIT P10: TRUE COPY OF THE JUDGMENT DATED 4.11.2013 IN WPC NO.16369/2013 OF THIS HON'BLE COURT.

EXHIBIT P11: TRUE COPY OF THE ORDER DATED 2.12.2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P12: TRUE COPY OF THE APPLICATION UNDER RIGHT TO INFORMATION ACT AND ITS REPLY DATED 18.2.2014 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P13: TRUE COPY OF THE APPLICATION DATED 25.7.2014 SENT BY THE PETITIONER TO THE 3RD RESPONDENT UNDER RIGHT TO INFORMATION ACT.

EXHIBIT P14: TRUE COPY OF THE REPLY DATED 27.8.2014 SENT BY THE 3RD RESPONDENT ALONG WITH ITS TRUE ENGLISH TRANSLATION.

RESPONDENT(S)' EXHIBITS

EXT.R1(A): A TRUE COPY OF THE PHOTOGRAPH SHOWING THE CONDITION OF THE BUILDING.

EX.R1(B):A TRUE COPY OF ANOTHER PHOTOGRAPH SHOWING THE CONDITION OF THE BUILDING

EXT.R1(C):A TRUE COPY OF THE LETTER SUBMITTED TO THE 3RD RESPONDENT DATED 20.6.2013.

EXT.R1(D): A TRUE COPY OF THE LETTER DATED 20.6.2013 ISSUED BY THE 3RD RESPONDENT.

EXT.R1(E):A TRUE COPY OF THE LETTER SUBMITTED TO THE 3RD RESPONDENT DATED 16.1.2015

EXT.R1(F):A TRUE COPY OF THE LETTER DATED 23.01.2015 ISSUED BY THE 3RD RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

SKV

P.V.ASHA, J.

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W.P.(C). No.32333 OF 2014

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Dated this the 17th day of August, 2015

JUDGMENT

The petitioner is challenging Ext.P11 order by which the Secretary, Kunnathukal Panchayat, the 2nd respondent rejected his application for Building permit. The reason stated is that the proposed Building of the petitioner comes within the Kunnathukal Grama Panchayat in Kerala State as well as Palukal Town Panchayat of Tamil Nadu State.

2. The petitioner had earlier approached this court against the rejection of the application for Building permit and this Court taking note of Ext.P5 No Objection Certificate issued by the Palukal Town Panchayat, by Ext.P10 judgment directed the Kunnathukal Panchayat to pass orders on his application while quashing Ext.P6 order passed by the Panchayat. Kunnathukal Grama Panchayat

has filed a counter affidavit pointing out that the 3rd respondent Panchayath has not given any permission for construction in the land belonging to them.

3. The 2nd respondent stated that they sought clarification from the Palukal Grama Panchayat as to whether they have issued any No Objection Certificate, for construction of the building in favour of the petitioner, referring to Ext.P5 No Objection Certificate, produced by petitioner. Further correspondence was made as seen from Ext.R1(d) to R1(f) letters. In Ext.R1(b) the Panchayat had mentioned that they do not have any objection for construction of the building save in the area of Palukal Town Panchayat. Petitioner relies on Ext.P5 issued by Executive Officer Palukal Town Panchayat on 26.4.2013 by which said Panchayat agreed for construction of Building in Resurvey No.447/4 and 309/2002.

4. When the matter came up for hearing on 23.6.2015, this court directed the Palukal Panchayat– the 3rd respondent in this writ petition to file an affidavit as to their stand on the request of petitioner for permission to construct building in

the aforesaid properties. Pursuant to that direction, Sri. Edwin Jose, Executive Officer, Palukal Panchayat has filed an affidavit dated 23.7.2015 stating as follows:-

"It is humbly submitted that this respondent issued the Exhibit P5 Certificate No.59/13 dated 26.4.2013 stating that the 3rd respondent has no objection in giving building permit by the 2nd respondent for construction of building to the petitioner in the property falling in Survey No.447/4 of Kunnathukal Village in Kunnathukal Special grade Grama Panchayat and in Resurvey No.309/2 of Edaikode village in Palukal Panchayat.

The Exhibit P-5 filed along with the Writ Petition is a valid document. This respondent did not annul or amend the Exhibit P-5.

It is respectfully submitted that the documents Exhibit R-1(c) to R-1(e) filed by the 2nd respondent were not issued by the 3rd respondent. The Exhibit R1(f) was issued after filing of the writ petition to clarify that part of the area referred in Exhibit P5 document is within the jurisdiction of the 3rd respondent. The Exhibit P-5 is still valid, is not annulled or amended."

5. Under the above circumstance respondents 1 and 2 cannot have any valid objection for granting permit to petitioner for construction of the building. Apprehension of the 1st respondent appears to be for the reason that the proposed building is lying in both the States. In view of the affidavit of the 3rd respondent Panchyat, there is no basis for such an apprehension.

Under the above circumstances, this Writ Petition is disposed of directing the respondents 1 and 2 to pass fresh

orders on Ext.P1 application submitted by the petitioner, taking note of Ext.P5 letter within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
P.V.ASHA, JUDGE

SKV