

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 33177 of 2015 (V)

PETITIONER(S):

- 1. A.ABBAS, AGED 62 YEARS,
ADEEPAT HOUSE, POONGOTTUKULAM,
TIRUR-676101 MALAPPURAM (DIST).**
- 2. MRS.SAFIYA,
ADEEPATH HOUSE, POONGOTTUKULAM, TIRUR 676 101,
MALAPPURAM (DIST).**

BY ADV. SRI.M.PRAVEESH

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, SECRETARIAT,
THIRUVANTHAPURAM, PIN - 695 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
TIRUR TALUK, MALAPPURAM (DISTRICT),
PIN - 676 101.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 33177 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE JUDGMENT IN W.P(C) 10253/2015 DATED 30.03.2015.

EXHIBIT P2: TRUE COPY OF THE ORDER OF RDO,TIRUR DATED 07.08.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.33177 of 2015

Dated this the 11th day of November, 2015

JUDGMENT

The petitioners approached the second respondent under Clause 6 of the Kerala Land Utilisation Order(for short, the “KLUO”). This was directed to be considered by this Court as per the judgment in W.P.(C) No.10253/2015. Thereafter, it was considered as per Ext.P2. The request of the petitioners has been rejected.

2. As seen from Ext.P2, the reason for rejection is that the petitioner's request to issue a possession certificate treating it as garden land. In fact, this Court has directed only to consider the application under Clause 6 of the KLUO to permit the petitioners to utilize the land for other purposes. Even if the petitioners have made any such request, the 'Collector' ought to have considered the petitioner's request under Clause 6 of the KLUO though the 'Collector' is justified in refusing to issue possession certificate treating the land as garden land. Therefore, Ext.P2 is set aside.

Treating the petitioners' application under Clause 6 of the KLUO for constructing a building, the Collector shall reconsider the matter. The petitioners shall also make a proper application and if there is no other impediment, necessarily, the application for constructing a residential building shall be granted by the second respondent. Appropriate decision shall be taken within two months from the date of receipt of a copy of this judgment after hearing the petitioner.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

In

The word “**residential**” occurring in the fifth line at page 2 of the judgment dated 11.11.2015 in W.P.(C) No.33177/2015 is corrected and substituted as “**nonresidential**”, vide order dated 08.12.2015 in I.A.17544/2015 in W.P.(C) No.33177/2015.

Sd/-

Registrar (Judicial)