

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI**

**FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYASHTA, 1937**

**WP(C).No.33535 of 2014 (N)**  
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**PETITIONERS:**  
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1. T.MAYINKUTTY HAJI,S/O.MOIDEEN,AGED 68 YEARS,  
METHALEPARAMBIL P.O.,KARTHIKAPALLY,  
VILLIYAPALLY VIA,VADAKARA,KOZHIKODE DISTRICT.
2. MOIDU HAJI M.M.,S/O.ABDULLA HAJI,AGED 66 YEARS,  
KHADEEJA MANZIL,P.O.KARTHIKAPALLY,  
VILLIYAPALLY VIA,VADAKARA,KOZHIKODE DISTRICT.
3. ANDRU HAJI P.K.,S/O.ABDULLA,AGED 70 YEARS,  
VALIYAKUNIYIL,P.O.KARTHIKAPALLY,  
VILLIYAPALLY VIA,VADAKARA,KOZHIKODE DISTRICT.

**BY ADVS.SRI.K.R.AVINASH (KUNNATH)**  
**SRI.ABDUL RAOOF PALLIPATH**

**RESPONDENTS:**  
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1. THE SECRETARY,VILIAPALLY GRAMA PANCHAYAT,  
P.O.VILLIAPALLY,VADAKARA,KOZHIKODE - 673 542.
2. THE VILLIAPALLY GRAMA PANCHAYAT,  
VILLIAPALLY P.O.,VADAKARA,KOZHIKODE - 673 542,  
REPRESENTED BY ITS SECRETARY.

**R1-R2 BY SRI.T.SETHUMADHAVAN (SENIOR ADVOCATE.)**  
**ADVS.SRI.PUSHPARAJAN KODOTH**  
**SRI.K.JAYESH MOHANKUMAR**  
**SMT.VANDANA MENON**  
**SMT.N.DEEPA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

pk

**WP(C).No.33535 of 2014 (N)**  
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**APPENDIX**

**PETITIONER'S EXHIBITS:**  
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**EXHIBIT P1:TRUE COPY OF THE TITLE DEED.**

**EXHIBIT P2:TRUE COPY OF THE SITE PLAN SUBMITTED FOR GRANTING  
PERMISSION.**

**EXHIBIT P3:TRUE COPY OF THE NOTICE DATED 14.08.2014 ISSUED BY THE 1ST  
RESPONDENT.**

**EXHIBIT P4:TRUE COPY OF THE LETTER DATED 10.09.2014 TO THE 1ST  
RESPONDENT.**

**EXHIBIT P5:TRUE COPY OF THE REPLY DATED 23.09.2014 GIVEN BY 1ST  
RESPONDENT.**

**RESPONDENT'S EXHIBITS:**  
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**NIL**

**//TRUE COPY//**

**P.S. TO JUDGE**

**pk**

**A.V. RAMAKRISHNA PILLAI, J.**

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**W.P.(C) No. 33535 of 2014**  
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**Dated this the 19<sup>th</sup> day of June, 2015**

**J U D G M E N T**

Ext.P3, by which the petitioners' application for building permit was rejected, is under challenge.

2. The petitioners are co-owners of a land having an extent of 27.8 Ares comprised in Re.Sy.No.47/13 in Villiapally Amsom Tharumala Desom within the local limits of the respondent panchayath. The petitioners submitted an application seeking permit for constructing a residential quarters, which was rejected by Ext.P3, stating that there is a proposal for town planning based on the recommendation of sub committee appointed by the 1<sup>st</sup> respondent. According to the petitioners, the said property is about 50 meters away from the main road and there exists few buildings in front of the proposed construction near to the main road and there is no necessity for the respondent to acquire the property of

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the petitioner for the proposed town development. They further allege that no step for acquisition is taken by the 1<sup>st</sup> respondent. It is with this background, the petitioners have approached this Court.

3. Arguments have been heard.

4. The learned counsel for the petitioners invited my attention to a Division Bench decision of this Court in **Padmini v. State of Kerala** [1999 (3) KLT 465], wherein it was held that no building permit can be refused to any person because there is a proposal to acquire the land in future. Reliance was also placed to the decision of the apex court in **Raju S. Jethmalani v. State of Maharashtra** [(2005) 11 SCC 222], wherein it was held that refusing to grant permits relying on obsolete DTP schemes is a clear violation of the provisions of the Constitution. Viewed in that profile, this Court is of the view that the petitioners are entitled to get the reliefs prayed for.

Therefore, the writ petition is allowed.

Ext.P3 is quashed and the respondent panchayath is directed to reconsider petitioners' application for building permit within a period of one month from the date of receipt of a copy of this judgment.

Sd/-  
**A.V. RAMAKRISHNA PILLAI**  
**JUDGE**

bka/-