

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. 33543 of 2015 (P)

PETITIONER:

**CHAMBAYIL RAJAN, AGED 65 YEARS
S/O. UNNEERIKUTTY, 29/506, ABIRAJ
P.O.GOV. ARTS AND SCIENCE COLLEGE
KOZHIKODE-673018.**

BY ADV. SRI.V.N.HARIDAS

RESPONDENTS:

**1. KOZHIKODE MUNICIPAL CORPORATION
REP. BY ITS SECRETARY, BEACH ROAD, KOZHIKODE-673032.**

**2. SECRETARY
KOZHIKODE MUNICIPAL CORPORATION, BEACH ROAD
KOZHIKODE-673032.**

R1 & 2 BY ADV. SRI.K.D.BABU,SC,KOZHIKODE CORPORATION

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

WP(C).No. 33543 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- TRUE COPY OF THE TAX RECEIPT DATED 04-08-2015 ISSUED BY THE VILLAGE OFFICER, CHERUVANNUR.**
- EXHIBIT P2- TRUE COPY OF THE POSSESSION CERTIFICATE DATED 22-08-2015 ISSUED BY THE VILLAGE OFFICER, CHERUVANNUR.**
- EXHIBIT P3- TRUE COPY OF THE ORDER DATED 17-10-2015 ISSUED BY THE SUPERINTENDING ENGINEER.**
- EXHIBIT P4- TRUE COPY OF THE REPLY DATED 29-10-2015 GIVEN BY THE AGRICULTURAL OFFICER, CHERUVANNUR.**
- EXHIBIT P5- TRUE COPY OF THE JUDGMENT DATED 29-07-2015 IN WPC NO. 25504/2014 OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A TO JUDGE

LSN

ANU SIVARAMAN, J.

W.P.(C). No.33543 of 2015

Dated this the 16th day of December, 2015

JUDGMENT

This writ petition is filed challenging the rejection of the petitioner's application for building permit for construction of a commercial building in his property. Six reasons are stated in Ext.P3 for rejection of the building permit. It is submitted by the counsel for the petitioner that five of such reasons are with regard to the non-production of certain details necessary for consideration of the application. It is submitted that those defects will be rectified by the petitioner. However, with regard to the sixth reason, it is stated that as per the document, the property is shown as 'Nilam' and therefore only single residential building can be permitted to be constructed. It is submitted by the learned counsel for the petitioner that though the property is shown as 'nilam' in the document, it is not included in the draft data bank. This contention of the petitioner has also not been controverted by the respondent Corporation which has filed statement in the matter. The learned counsel for the

petitioner also relies on Ext.P5 judgment to contend that this application is liable to be considered even if the property shown as 'nilam' in the document. The rejection of the application is not supported by valid reasons and is vitiated by absolute lack of application of mind.

2. In the above circumstances, Ext.P3 is set aside. The second respondent is directed to consider the application preferred by the petitioner for construction of a commercial building in his property on the petitioner resubmitting the application after curing the defects noted as reasons 1 to 5 in Ext.P3. The consideration of the application shall be in the light of Ext.P5 judgment. Orders shall be passed on the application preferred by the petitioner within a period of one month from the receipt of a copy of this judgment . The petitioner shall produce a copy of this judgment along with a copy of writ petition before the second respondents for compliance.

Writ Petition ordered accordingly

**Sd/-ANU SIVARAMAN,
Judge**