

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 33620 of 2015 (B)

PETITIONER:

K.S. PRAKASH, S/O.SANKARA IYYER, AGED 48 YEARS,
7/311 (14), 'SREE GANESH',
GANESH NAGAR, SEKARIPURAM, PALAKKAD -678 010.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENT:

PALAKKAD MUNICIPALITY
REP. BY ITS SECRETARY, MUNICIPAL OFFICE,
PALAKKAD - 678 001.

R1 BY ADVs. SRI.T.C.SURESH MENON
SRI.P.S.APPU
SRI.A.R.NIMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 33620 of 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P-1: TRUE COPY OF THE SALE DEED No.2093/2013 OF SRO,
OLAVAKKODE.

EXT.P-2: TRUE COPY OF THE ORDER PASSED BY THE RESPONDENT
DATED 16.9.2015 IN BA/426/15-16/PW5.

EXT.P-3: TRUE PHOTOGRAPH OF THE PLOT OF THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL

// True Copy //

P.A to Judge.

smp

P.BHAVADASAN, J.

Writ Petition (Civil) No.33620 OF 2015

Dated this the 13th day of November, 2015.

J U D G M E N T

Under challenge is Ext.P2 order whereby the petitioner's application for building permit was rejected on the ground that the property which is owned by the petitioner is included in the planning scheme of local authority and so also its nomenclature is shown as 'nilam' in the revenue records.

2. The petitioner owns 0.0389 hectors of land in survey No.1477/1C in Block 35, in Palakkad-II Village of Palakkad Taluk. Desirous of putting up a building, he approached the local authority with necessary application. That was rejected by Ext.P2 order.

3. Learned counsel appearing for the petitioner points out that the so called DTP scheme is an obsolete one and no steps have been taken in pursuance to the said scheme. Under such circumstances, it is well settled that the obsolete scheme cannot stand in the way of granting permit by the local authority. Further, it is contended that there are several buildings which

have come up in the locality more so near to the property owned by the petitioner and there was no objection even if the nomenclature of the property is shown as 'nilam'. The rejection of the petitioner's application on that ground cannot be sustained.

4. After having heard the learned counsel for the petitioner and the learned counsel appearing for the local authority, it appears that there is some justification in the complaint raised by the petitioner. At any rate, the matter needs re-consideration at the hands of the local authority.

For the above reasons, this petition is allowed. Ext.P2 order is set aside and the respondent is directed to conduct local inspection of the property to satisfy as to the nature of the land possessed by the petitioner and also to consider his application for putting up a building in accordance with law and in the light of the various decisions of the Apex Court, within a period of 30 days from the date of receipt of a copy of this judgment.

Sd/-

**P.BHAVADASAN
JUDGE**

smp