

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. 33693 of 2015 (J)

PETITIONER:

SHIHABUDEEN K.A., S/O.ABDUL LATHEEF,
AGED 42 YEARS, RESIDING AT KOCHUVEETIL HOUSE,
PATTURACKAL, THRISSUR DISTRICT.

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

RESPONDENTS:

1. THRISSUR CORPORATION
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE
THRISSUR - 680 001.
2. THE EXECUTIVE ENGINEER,
LSGD, THRISSUR CORPORATION, CORPORATION OFFICE
THRISSUR-1.

R1 & R2 BY SRI.K.P.VIJAYAN, SC, THRISSUR CORPORATION
SRI.V.N.HARIDAS

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. 33693 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1- TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE
OFFICE, THRISSUR TO THE PETITIONER DATED 11/05/2015.

EXHIBIT-P2- TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT
TO THE PETITIONER DATED 07/09/2015.

EXHIBIT-P3- TRUE COPY OF THE CERTIFICATE ISSUED BY THE ADDITIONAL
TAHSILDAR, THRISSUR DATED 01/10/2015.

EXHIBIT-P4- TRUE COPY OF THE JUDGMENT IN W.P(C) 14858/2015 OF THIS
COURT DATED 16/06/2015.

RESPONDENT'S EXHIBITS: NIL

// True Copy //

P.A to Judge.

smp

P.BHAVADASAN, J.

Writ Petition (Civil) No.33693 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 for putting up a structure in his property has been rejected mainly on the ground that as per the master plan and the possession certificate, the property is shown as paddy field.

2. The petitioner is the absolute owner and in possession of 0.0648 hectares of land in survey No.1635/P of Thrissur Village in Thrissur Taluk. He wanted to put up a residential apartment complex in his property. For the said purpose, he applied to the Corporation for building permit. To the surprise of the petitioner, that application has been rejected by Ext.P2 order stating several grounds. The petitioner takes objection only to clause No.5 in Ext.P2 since other defects are curable. As per clause No.5, Corporation has rejected the application on the ground that as per the master plan and the possession certificate, the property is

shown as paddy land.

3. The petitioner points out that in and around the property in relation to which building is sought to put up, several buildings have come up and there was no objection from the side of the Corporation with regard to its construction. There is no justification therefore for rejecting the application of the petitioner on that ground. The petitioner relies on the decisions in **Mohammed Abdul Basheer C.P vs. State of Kerala** (2012 (3) KLT 86), **Jalaja Dileep vs. Revenue Divisional Officer** (2012 (3) KLT 333) and in **Shahanaz Shukkoor vs. Chelannur Grama Panchayat** (2009 (3) KLT 899). The petitioner also relies on Ext.P4 judgment of this Court in W.P.(C) No.14858/2015 wherein a similar issue was considered. In the said judgment, this Court took the view that merely because the property is shown as paddy land that does not mean that permit should be rejected. This Court took the view that the authority should conduct an inspection of the property regarding the present lie as well as the condition of the property of the petitioner and the surrounding properties. After taking note of

such factors, the respondent therein was directed to re-consider the application seeking permit for putting up structure.

4. Learned Standing Counsel appearing for the local authority pointed out that apart from the fact that the land is shown as paddy land, there are other defects which compelled the authority to reject the application for building permit.

5. It is not in dispute that all the other defects shown in Ext.P2 order are curable. The petitioner is directed to cure the said defects.

6. As far as clause No.5 in Ext.P2 is concerned, this Court only needs to follow the decision taken by this Court in W.P.(C) No.14858/2015. This writ petition is disposed of as follows.

Ext.P2 order shall stand quashed. The respondent-Corporation is directed to conduct local inspection of the property regarding the present lie as well as the condition of the property of the petitioner and the surrounding properties. The respondent-Corporation then shall re-consider the application and pass orders granting permit, if it is satisfied that the land is unfit

for paddy cultivation, after affording the petitioner an opportunity of being heard. Final orders shall be passed within one month from the date of receipt of a copy of this judgment.

Sd/-

**P.BHAVADASAN
JUDGE**

smp

// True Copy //

P.A to Judge