

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(C).No. 34664 of 2014 (G)

PETITIONER(S):

**TONY JOSE, S/O.JOSE, AGED 25 YEARS,
PUTHENPURACKAL HOUSE, MANJUMMEL P.O,
ELOOR VILLAGE, PARUR TALUK, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.JOHN JOSEPH(ROY)
SRI.MATHEW JACOB (KUNNATHU)**

RESPONDENT(S):

- 1. SUB INSPECTOR OF POLICE,
ELOOR POLICE STATION, UDYOGMANDAL P.O,
ERNAKULAM DISTRICT -683 501.**
- 2. SUNIL ALIAS KUTTAN,
S/O.PUSHPAN, PALAPPURATH HOUSE,
ELOOR DEPOT, UDYOGAMANDAL P.O, ELOOR VILLAGE,
PARUR TALUK, ERNAKULAM DISTRICT, PIN-683 501.**
- 3. SHAMSUDHEEN ALIAS SHAMSU,
S/O.ALI, NAGARAKANDATHIL HOUSE
ELOOR DEPOT, UDYOGAMANDAL P.O, ELOOR VILLAGE,
PARUR TALUK, ERNAKULAM DISTRICT, PIN-683 501.**
- 4. SUNIL, S/O.JOSE,
THANNIKKAPPILLY HOUSE, ELOOR DEPOT, UDYOGAMANDAL P.O,
ELOOR VILLAGE, PARUR TALUK, ERNAKULAM DISTRICT,
PIN-683 501.**

**R1 BY SENIOR GOVERNMENT PLEADER SRIP.J.DAVIS
R2 - R 4 BY ADV. SRI.K.K.ASHKAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE LAND TAX RECEIPT OF THE PETITIONER IN RESPECT OF THE 4 CENTS OF PROPERTY
- EXT.P1(A) - TRUE ENGLISH TRANSLATION OF THE EXHIBIT P1
- EXT.P2 - TRUE COPY OF THE BUILDING PERMIT DATED 17-10-2014 ISSUED BY ELOOR MUNICIPALITY TO THE PETITIONER
- EXT.P3 - TRUE COPY OF THE COMPLAINT FILED BEFORE THE 1ST RESPONDENT BY THE PETITIONER SEEKING POLICE PROTECTION.
- EXT.P3(A) - TRUE TRANSLATION OF EXHIBIT P3 COMPLAINT
- EXT.P4 - TRUE COPY OF THE RECEIPT OF THE COMPLAINT FILED BEFORE THE 1ST RESPONDENT BY THE PETITIONER
- EXT.P4(A) - TRUE TRANSLATION OF EXHIBIT P4.
- EXT.P5:
NOTICE TRUE COPY OF THE REPLY ISSUED BY THE MUNICIPALITY TO R3(A)
- EXT.P(A): TRUE ENGLISH TRANSLATION OF THE EXT.P5
- EXT.P6: TRUE COPY OF THE NOTICE DATED 24/1/15 ISSUED BY ELOOR MUNIICIPALITY TO THE PETITIONER
- EXT.P6(A): TRUE ENGLISH TRANSLATION OF THE EXT.P6
- EXT.P7: TRUE COPY OF THE CERTIFICATE FROM THE ELOOR VILLAGE OFFICER DATED 29/1/15
- EXT.P7(A): TRUE TRANSLATION OF EXT.P3 COMPLAINT.

RESPONDENT(S)' EXHIBITS

- EXT.R3(A): TRUE COPY OF THE NOTICE BEARING NO.PW1 NO.11136/14 DATED 10/12/14 ISSUED BY SECRETARY, ELOOR MUNICIPALITY FOR REVOKING EXT.P2 BUILDING PERMIT TO THE PETITIONER WITH ENGLISH TRANSLATION.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.34664 of 2014

Dated this the 23rd day of September 2015

J U D G M E N T

Shaffique, J

Petitioner has approached this Court inter alia contending that respondents 2 to 4 are creating obstruction in constructing the building for which the petitioner has obtained valid building permit.

2. Counter affidavit has been filed by respondents 2 to 4 inter alia stating that though building permit was issued, Municipality had issued a show cause notice calling upon the petitioner to show cause why the building permit should not be cancelled on the ground that the property involved was paddy land as shown in the revenue records as well as in the data bank entries prepared by the Local Level Monitoring Committee.

3. Petitioner preferred a writ petition challenging the aforesaid notice. According to the petitioner, the learned Single Judge had permitted construction to be made in respect of the buildings for which valid permit has been issued.

3. This contention of the learned counsel for the petitioner is opposed by learned counsel for respondents 2 to 4.

4. Apparently, petitioner was issued with a show cause notice by the Municipality and the learned Single Judge has only permitted the petitioner to make construction of the building for which there is valid building permit. Under such circumstances, it may not be possible for this Court to direct the police to prevent any obstruction to be made in the construction. It shall be open for the petitioner to approach the Municipality and get appropriate orders.

With the above observation, this writ petition is closed.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr

