IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 34789 of 2014 (W)

PETITIONER:

V.R.SAJEEVAN, S/O.RAMAKRISHNAN,
MANAGING PARTER
M/S.ASWATHY BAR & HOTEL, KODUNGALLOOR
THRISSUR DISTRICT

BY ADVS.SRI.T.A.SHAJI (SR.)
SMT.NAMITHA JYOTHISH

RESPONDENTS:

1. KODUNGALLUR MUNICIPALITY, MUNICIPAL OFFICE,
KODUNGALLUR, THRISSUR DIST
REP BY ITS SECRETARY PIN 680 004.

2. STATE OF KERALAREP BY THE CHIEF SECRETARY
TO THE GOVERNMENT, GOVT.SECRETARIAT,
THIRUVANANTHAPURAM-695001.

3. DIVISIONAL OFFICER, FIRE AND RESCUE SERVICES,
THRISSUR, PIN-680001.

4. THE REGIONAL DIRECTOR, HOTEL AND RESTAURANT
APPROVAL AND CLASSIFICATION COMMITTEE
154, ANNA SALAI, CHENNAI-600002.

R1 BY ADVS. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.KANDAMPULLY RAHUL
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR
R2 & R3 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 34789 of 2014 (W)

PETITIONER'S EXHIBITS:

EXT.P1:-TRUE COPY OF THE BUILDING PERMIT NO BA 380/07-08 DATED 24/1/2008 ISSUED BY IST RESONDENT MUNICIPALITY

EXT.P2:-TRUE COPY OF THE RENEWED BUILDING PERMIT DATED 21/7/2011

EXT.P3:-TRUE COPY OF THE OCCUPANCY CRTIFICATE DATED 28/9/2013

EXT.P4:-TRUE COPY OF THE APPLICATION DATED 13/1/2014 MADE BY PETITIONER FOR RENEWAL OF THE BUILDING PERMIT

EXT.P5:-TRUE COPY OF THE NOTICE DATED 7/6/2014 ISSUED BY THE IST RESPONDENT TO THE PETITIONER

EXT.P6:-TRUE COPY OF THE COVERING LETTER DATED 1/7/2004 FORWARDING THE REVISED PLAN

EXT.P7:-TRUE COPY OF THE APPLICATION DATED 17/6/2014 TO FORWARD THE APPLICATION FOR FIRE NOC

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.34789 of 2014 W

Dated this the 23rd day of January, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the first respondent, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, being the Managing Partner of a Bar and Hotel, was initially granted FL-3 Hotel (Restaurant) licence as early as in 1986. In view of the recent change in the Abkari Policy of the Government, the petitioner desired to have his Bar and Hotel upgraded to a Four Star classification. In that regard, the petitioner obtained Exhibit P1 building permit from the first respondent. Later, however, after initial renewal of Exhibit

P1 permit, the petitioner applied for second renewal, which was kept on hold.

3. As could be seen from the record, the respondent Municipality issued Exhibit P5 proceedings on 07.06.2014 directing the petitioner to produce a revised building plan to be considered. In compliance with Exhibit P5, the petitioner is said to have submitted a revised plan through Exhibit P6. Complaining of inaction in considering the petitioner's revised building plan, the petitioner has approached this Court.

4. The first respondent Municipality has filed its counter affidavit contending in paragraph 6 thereof that so far the petitioner has not responded to Exhibit P5, apart from raising other objections.

5. The learned Senior Counsel for the petitioner has submitted that it is evident from the record, and it cannot be disputed by the respondent Municipality, that the

petitioner responding to Exhibit P5 did submit a revised plan through Exhibit P6. He has also submitted that the petitioner is willing to comply with all other statutory parameters to enable the first respondent to process the petitioner's application concerning revised building permit, if at all the respondent Municipality points out any deficiencies in the petitioner's application. The learned Standing Counsel for the respondent Municipality has submitted that, if the petitioner has already submitted, as has been contended by the learned Senior Counsel, any revised master plan, the respondent Municipality does not have any objection in considering it in accordance with law.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel, this Court, without adverting to the merits of the matter, disposes of the writ petition with a direction to the first respondent to

consider petitioner's revised master plan submitted through Exhibit P6, if it is already available on the records of the Municipality, in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

In the light of the controversy whether the revised building plan has been submitted by the petitioners, it is further made clear that if the respondent Municipality does not find any revised plan having been submitted by the petitioner, it is required to inform the petitioner the said fact, where after, the petitioner may submit, once again, the revised master plan. In that eventuality, the time frame fixed shall be from the date of re-submission of the revised master plan by the petitioner. It is further made clear that if any deficiencies are found in the application of the petitioner, the respondent Municipality is at liberty to put

the petitioner on notice seeking their compliance. Needless to observe that in the event of the respondent Municipality considering the petitioner's application for building permit positively, it is further obligatory on its part to comply with all other formalities such as forwarding the petitioner's application for No Objection Certificate from the Fire Department.

Dama Seshadri Naidu, Judge

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