

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WP(C).No. 34778 of 2015 (V)

PETITIONER(S) :

**M.G.BHASKARAN, AGED 64 YEARS,
S/O. MANNATH GOPALAN NAIR, MANNATHU VEEDU,
PANANCHERRY PATTIKKADU P.O, THRISSUR.**

**BY ADVS.SRI.M.P.ASHOK KUMAR
SMT.BINDU SREEDHAR
SMT.R.S.MANJULA**

RESPONDENT(S) :

- 1. PANANCHERRY GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, PATTIKKADU P.O.,
THRISSUR- 680 652.**
- 2. THE VILLAGE OFFICER,
PANANCHERRY, THRISSUR DISTRICT - 680 652.**

**R1 BY ADV. SRI.A.C.DEVY
R2 BY SR.GOVERNMENT PLEADER SMT.K.A.SANJEETHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: PHOTOCOPY OF THE DEED NO.18304 DATED 18.10.2013.**
- P2: PHOTOCOPY OF THE APPROVED PLAN ISSUED BY THE PANCHAYATH SECRETARY AND ENGINEER.**
- P3: PHOTOCOPY OF THE BUILDING PERMIT DATED 02.06.2014.**
- P4: TRUE COPY OF THE PHOTOGRAPHS OF THE COMPLETED BUILDING.**
- P5: PHOTOCOPY OF THE NOTICE ISSUED BY THE PANCHAYATH DATED 30.01.2015.**
- P6: PHOTOCOPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
- P7: PHOTOCOPY OF THE RTI APPLICATION FILED BY THE PETITIONER BEFORE THE PANCHAYATH DATED 20.02.2015.**
- P8: PHOTOCOPY OF THE ACKNOWLEDGEMENT CARD DATED 20.02.2015.**
- P9: PHOTOCOPY OF THE LETTER NO.B4-7372/2015 DATED 31.10.2015.**
- P10: PHOTOCOPY OF THE RELEVANT PAGE OF DRAFT DATA BANK PUBLISHED BY THE AGRICULTURE DEPARTMENT.**
- P11: PHOTOCOPY OF THE BUILDING PERMIT DATED 23.07.2014.**
- P12: PHOTOCOPY OF THE POSSESSION CERTIFICATE DATED 16.06.2014.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K.HARILAL, J.

W.P.(C) No.34778 of 2015

Dated this the 25th day of November, 2015.

JUDGMENT

The petitioner is a retired Government employee, who purchased 5 cents of garden land in Sy.No.120/4P of Pananchery Village lying on the southern side of NH-47 Thrissur-Palakkad road, by virtue of Ext.P1. After the said purchase, the petitioner applied for building permit for the construction of a two storied building in the said property. After conducting the site inspection, Ext.P2 plan was approved by the Panchayat Secretary and Engineer and, on the basis of Ext.P2, granted Ext.P3 building permit for construction of the said building. Thereafter, the petitioner availed a loan from the bank for the construction of the building and completed the construction in accordance with Exts.P2 and P3 in 2015 and the same is evidenced by Ext.P4 photograph. On completion of the construction, the petitioner applied for allotment of

building number. Then the Panchayat issued Ext.P5 notice directing him to show cause for not cancelling Ext.P2 building permit stating that somebody has filed a complaint against the granting of permit and also in the BTR Register the property is described as Nilam. Even though the petitioner applied for the copy of the complaint, invoking the provisions under the Right to Information Act, the same has not been issued to him. Thereafter, by Ext.P9 letter, the Panchayat rejected his application for allotment of building number stating that the complaint received against the construction is pending and possession certificate produced by the petitioner was also false and the report of the Village Officer is also against him. The rejection of the application seeking building number by Ext.P7 is under challenge in this writ petition.

2. Heard the learned counsel for the petitioner, the learned Government Pleader and the learned Standing Counsel for the Panchayat.

3. The learned counsel for the petitioner advanced arguments challenging the reasons stated in

Ext.P9 whereby the application for allocation of building number stands rejected. The sum and substance of the arguments advanced by the petitioner is that after the approval of the plan and issuance of a valid permit thereon, the 1st respondent Panchayat has no right or authority to cancel the building permit after the completion of the building, for any ground other than the violation of the plan and permit. Therefore, Ext.P9 order is, per se, illegal and liable to be quashed at the threshold.

4. The learned Standing Counsel for the Panchayat submits that the building permit was cancelled on the basis of the complaint filed by another person stating that as per the BTR Register the property is described as Nilam. So also, it is stated that the Village Officer has reported that the possession certificate produced by the petitioner was false one. Thus, on the basis of the complaint filed by another person alleging that the land, where the construction is made, was a Nilam, the Panchayat was constrained to cancel the building permit.

5. In view of the rival pleadings, the point to be considered is whether the Panchayat is justified in denying the numbering of the building, which was constructed in accordance with approved plan and permit.

6. Going by Exts.P2 and P3, it is seen that the Panchayat has approved the plan and issued the building permit thereon after conducting the site inspection by the Panchayat Secretary and Engineer. It stands admitted that now the construction of the building has been completed and the Panchayat has no case that the petitioner has made any construction in violation of the approved plan or building permit. It follows that the petitioner has made construction on a legitimate expectation that the Panchayat would number the building and issue occupancy certificate on completion of the same, in accordance with the approved plan and permit. Here, after the completion of the building, the 1st respondent has declined the application for numbering the building on the reason that somebody has filed a complaint alleging that the

property was originally lying as 'Nilam' in the BTR register as well as in the Data Bank. But, Ext.P10, the relevant extract of the Draft Data Bank shows that the petitioner's property was lying as dry land with coconut trees and arecanut trees. Thus, Ext.P10 shows that there is no substance in the contention that the land where the building had been constructed was a paddy land. After the construction of the building in accordance with the approved plan and permit, the Panchayat cannot be justified in rejection of the numbering of the building on the reason that in the BTR Register the property was shown as 'Nilam'. Moreover, after the approval of the plan and issuance of the building permit thereon the Panchayat has no authority to cancel the permit for any reason other than violation of the plan and building permit. In the instant case, the Panchayat has no case that there is violation of the plan or building permit. So also, the Panchayat has no case that the land, where the building had been constructed was a paddy land and the same was reclaimed after the commencement of the

Kerala Conservation of Paddy Land and Wet Land Act, 2008.

7. In the above analysis, I find that the reason stated for rejection of the request for numbering the building is unfounded and illegal. The 1st respondent Panchayat is directed to number the building and issue occupancy certificate accordingly, within a period of one month from the date of receipt of a copy of this judgment, if there is no violation of Rules.

This writ petition is allowed accordingly.

Sd/-
K. HARILAL, JUDGE

okb.