

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 35612 of 2015 (B)

PETITIONER(S):

**ABU, AGED 55 YEARS
S/O.PAKKU, SHAHANA MANZIL, NORAVANA MEETHAL
ULLIYERI, KOZHIKODE DISTRICT, PIN-673 620.**

**BY ADVS.SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN**

RESPONDENT(S):

**ULLIYERI GRAMA PANCHAYAT
ULLIYERI P.O., KOZHIKODE DISTRICTG, PIN-673 620
REPRESENTED BY ITS SECRETARY.**

**BY ADVS. SRI.P.R.SREEJITH
SRI.M.PROMODH KUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 35612 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE SALE DEED REGISTERED AS DOC.NO.1638/2007
DATED 23/7/2007 OF NADUVANNUR SRO.**
- EXT.P2. TRUE COPY OF ORDER NO.A3-297/14-15 DATED 23/11/2014 ISSUED BY
THE RESPONDENT.**
- EXT.P3. TRUE COPY OF PHOTOGRAPHS (2 NOS) OF THE PETITIONER.**
- EXT.P4. TRUE COPY OF JUDGMENT DATED 30/8/2015 IN WPC NO.22482/2015
PASSED BY THIS HONOURABLE COURT.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A TO JUDGE

LSN

ANU SIVARAMAN, J.

W.P.(C). No.35612 of 2015

Dated this the 16th day of December, 2015

JUDGMENT

This writ petition is filed challenging Ext.P2 order issued by the respondent rejecting petitioner's application for construction of a commercial building in his property. It is submitted by the petitioner that he had purchased the property having an extent of 24 cents by Ext.P1 document dated 23.07.2007. In the said document itself, it is shown that one part of the property was garden land and the remaining property was converted paddy land. It is the case of the petitioner that the property is not included in the draft data bank and therefore he is entitled to be granted building permit for construction in the property. Petitioner has also produced Ext.P3 photographs to show that the property is not 'nilam' or paddy land. Petitioner also relies on Ext.P4 judgment of this Court in support of the contention that his application for building permit is liable to be reconsidered.

2. Heard the learned counsel for the petitioner and learned Standing Counsel for the respondent.

3. It is submitted by the learned counsel appearing for the respondent that the petitioner has not produced any evidence to show that the property is not included in the draft data bank. However, it is not disputed by the learned counsel for the respondent that photographs shown as Ext.P3 relate to petitioner's property.

The impugned order reveals complete lack of application of mind. No site inspection also is seen conducted before the same is issued. In the above circumstances, Ext.P2 is set aside. The respondent is directed to conduct a local inspection to ascertain the present lie as well as the condition of the property and reconsider the application preferred by the petitioner for building permit and grant permission if the Panchayath is satisfied that the property is not cultivable at present. Petitioner is directed to produce copy of the draft data bank before the respondent. The petitioner shall also be

given an opportunity of hearing. Final order in this regard shall be passed by the respondent within a period of one month from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of this judgment along with a copy of writ petition before the respondent for compliance.

**Sd/-ANU SIVARAMAN,
Judge**

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