IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 18TH DAY OF DECEMBER 2020 / 27TH AGRAHAYANA, 1942

WP(C).No.25621 OF 2020(C)

PETITIONER:

T.AMBUJAKSHAN NAIR, AGED 65 YEARS
S/O. LATE THANKAPPAN NAIR, VETTIKKATTU
KALABHAM HOUSE, AMBALAPPUZHA P.O., ALAPPUZHA-688 561.

BY ADVS.
SRI.K.S.HARIHARAPUTHRAN
SMT.BHANU THILAK

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT, ENVIRONMENT DEPARTMENT, GOVT. SECRETARIAT, TRIVANDRUM-695 002.

2 **KERALA COASTAL ZONE MANAGEMENT AUTHORITY**
REPRESENTED BY MEMBER SECRETARY,
THIRUVANANTHAPURAM-695 001.

3 **AMBALAPPUZHA SOUTH GRAMA PANCHAYATH**
REPRESENTED BY IT SECRETARY, AMBALAPPUZHA-688 561.

R2 BY SRI.M.P.PRAKASH, SC, KCZMA
R3 BY ADV. SRI.S.SANTHOSH KUMAR
R3 BY ADV. SMT.P.LISSY JOSE

G RANJITA GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 18th day of December 2020

The petitioner owns a land in Re.Sy.No.86/4 of Ambalappuzha Village, Alappuzha District. The petitioner's father was the original owner of the land. According to the petitioner, a cinema theatre – 'Swapna Talkies' was operating in the land from 1968 onwards. The petitioner claims that the plinth area of the cinema theatre was 860 Sq.mts. It is submitted that the building of the cinema theatre was collapsed in the year 2005.

2. The petitioner submitted an application for renovation building. This area comes under the Coastal Regulation Zone. The Panchayat forwarded the proposal to the CRZ Authority. The only evidence that was made available before CRZ Authority is the resolution of the Grama Panchayat.

CRZ Authority, in the absence of any valid documents to prove the existence of the building, has refused to grant clearance. A review petition was filed and that was also declined. Challenging these, the petitioner approached this Court.

3. The Panchayat resolution would not be sufficient to prove the existence of the building. As it is only a piece of evidence, there must be public records in regard to the existence of the building. The learned counsel for the Panchayat submits that all the available records can be forwarded to the CRZ Authority. Based on the submission as above, I am of the view that an opportunity should be given to the petitioner to prove the existence of the structure in the land. In the above circumstance, the impugned order is set aside. The Panchayat is directed to forward the public records for taking decision by the CRZ Authority, within a period of one month. Thereafter, the CRZ Authority shall take an appropriate decision, in

accordance with law, without further delay thereon.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

PR

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE RELEASE DEED NO.29 DATED 6.1.2020 OF THE SRO, AMBALAPPUZHA.**
EXHIBIT P2	**TRUE COPY OF THE BASIC TAX RECEIPT DATED 30.1.2020 ISSUED BY THE VILLAGE OFFICER AMBALAPPUZHA.**
EXHIBIT P3	**TRUE COPY OF THE DECISION NO.5 DATED 26.12.2019 OF THE COMMITTEE OF THE THIRD RESPONDENT.**
EXHIBIT P4	**TRUE COPY OF THE APPLICATION NO.A3-1340 DATED 26.2.2020.**
EXHIBIT P5	**TRUE COPY OF THE CERTIFICATE NO.A6-2819/20 DATED 2.7.2020 ISSUED BY THE THIRD RESPONDENT.**
EXHIBIT P6	**TRUE COPY OF THE LETTER NO.A3-821/20 DATED 30.6.2020 ALONG WITH THE DECISION DATED 29.6.2020 OF THE PANCHAYAT COMMITTEE.**
EXHIBIT P7	**TRUE COPY OF THE MINUTES OF THE 109TH MEETING OF THE THIRD RESPONDENT HELD ON 24.7.2020 AND THE DECISION THEREON.**
EXHIBIT P8	**TRUE COPY OF THE REVIEW PETITION DATED NIL SUBMITTED BEFORE THE SECOND RESPONDENT.**
EXHIBIT P9	**TRUE COPY OF THE ORDER DATED 11.9.2020 OF THE SECOND RESPONDENT.**