

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

SATURDAY, THE 31ST DAY OF MAY 2014/10TH JYAISHTA, 1936

RP.No. 190 of 2014 (C)

**AGAINST THE JUDGMENT IN WP(C) 24423/2013 of THIS HONOURABLE COURT ,
DATED 22-10-2013**

REVIEW PETITIONER(S)/RESPONDENTS:-:

- 1. THE KANNADI GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, KANNADI P.O.,
PALAKKAD - 678 101.**
- 2. THE SECRETARY,
THE KANNADI GRAMA PANCHAYATH, KANNADI P.O.,
PALAKKAD - 678 101.**

BY ADV. SRI.P.R.VENKETESH

RESPONDENT(S)/PETITIONER:-:

**C.B.SUMESH BABU,
MANAGING DIRECTOR,
CHATHAMKULAM PROJECTS AND DEVELOPERS PVT. LTD.,
N.H.BYEPASS, CHANDRA NAGAR, PALAKKAD - 678 001.**

**BY ADVS. SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA**

**THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 31-05-2014,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

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APPENDIX

PETITIONERS' ANNEXURES

**ANNEXURE I: REPORT OF THE OVERSEER GR.II LSGD SECTION, KANNADY GRAMA
PANCHAYATH**

RESPONDENTS' ANNEXURES

**ANNEXURE R-1(A):TRUE COPY OF THE LETTER NO.865/2008 OF THE REVENUE
DIVISIONAL OFFICER, PALAKKAD DATED 7/3/2008**

**ANNEXURE R-1(B):TRUE COPY OF THE LETTER NO.A2-3603/2013 OF THE
SECRETARY OF THE KANNADI GRAMA PANCHAYATH.**

/ TRUE COPY /

P.S. TO JUDGE

PJ

K.SURENDRA MOHAN, J.

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in
W.P.(C) No.24423 of 2013

Dated this the 31st day of May, 2014

O R D E R

The respondents in W.P.(C) No.24423 of 2013 have filed this review petition seeking review of the judgment dated 22.10.2013, finally disposing of the writ petition. According to the counsel for the review petitioners, the respondent owns a total extent of 97.40 cents of land. The respondent has sought for the grant of a building permit to construct an apartment complex. The extent of land required for the construction is 70.43cents. The predecessor in title of the respondent was granted permission to convert 35cents of land under the Kerala Land Utilisation Order. The petitioner has obtained a similar permission with respect to an additional extent of 28 cents. Thus, the total extent of land with respect to which permission for conversion has been granted, is 63cents.

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Since the construction is proposed to be made utilising a larger extent of land than what has been permitted to be converted, the petitioners seek the issue of a clarification as to whether they are bound to issue a building permit as sought for. According to the petitioners, in the light of the direction issued by this Court, they are not in a position to decide whether a building permit to effect construction on the entire extent of 70.43 cents could be issued or not.

2. Advocate Binoy Vasudevan who appears for the respondent submits that this Court has not directed the issue of a building permit to the respondent. What has been directed is only to consider the application for building permit that has been submitted. It has also been directed that the application of the respondent has to be considered after conducting a physical inspection of the property and ascertaining its present condition. The above being the position, it is contended that, the judgment does not require to be reviewed or clarified in any manner.

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3. Heard. What has been found in the judgment sought to be reviewed is that, permission to convert a major portion of the land has already been granted under the Kerala Land Utilisation Order. There is no indication as to what is the present condition of the land. In fact, no attempt to ascertain the present condition of the land has been made by the authorities concerned. Therefore, it has been held that in the light of the dictum laid down by this Court, it is necessary for the review petitioners to conduct an inspection of the property and to ascertain its present condition. The direction of this Court in the judgment reads as follows:-

This writ petition is, therefore, allowed. Exhibit P12 is set aside. The 2nd respondent is directed to consider the application submitted by the petitioner afresh and to pass appropriate orders thereon, after conducting an inspection of the petitioner's property to ascertain the present condition thereof. Orders in accordance with the above direction shall be passed, as expeditiously as possible and at any rate within a period

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of one month of the date of receipt of a copy of this judgment.

A reading of the above shows that, the direction is only to the second petitioner to consider the application for building permit submitted by the respondent. Such consideration has to be preceded by a physical inspection of the property. If it is found that, property in excess of what has been permitted to be converted was converted, it is for the authorities to consider whether the same was with the permission of law or not and also whether such conversion was acceptable in law. On the basis of such data, a decision has to be taken in accordance with law. The review petitioners have not been directed to grant a building permit, what has been directed is only to consider the application. Therefore, there is no basis for the apprehension that has been expressed in the review petition.

I do not find any error apparent on the face of the

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record or other sufficient reason justifying a review of the judgment, as sought for. In view of the above, this review petition is dismissed.

Sd/-
K.SURENDRA MOHAN,
JUDGE

kkj