

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WP(C).No. 33066 of 2014 (G)

PETITIONER(S):

**SREE SANKARANKULANGARA DEVASWOM,
REPRESENTED BY ITS PRESIDENT K.GOPI,
S/O.K.ACHUTHA MENON, SREELAKSHMI, DURGA NAGAR,
KANATTUKARA, THRISSUR DISTRICT.**

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENT(S):

- 1. THE CHIEF TOWN PLANNER,
THIRUVANANTHAPURAM - 695 001.**
- 2. THRISSUR CORPORATION,
REPRESENTED BY ITS SECRETARY, THRISSUR - 680 001.**
- 3. TOWN PLANNING OFFICER,
OFFICE OF THE DISTRICT TOWN PLANNER, PATTURACKAL,
THRISSUR - 680 001.**

**R1 & R3 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR
R2 BY ADV. SRI.K.P.VIJAYAN, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 33066 of 2014 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE VILLAGE OFFICER, AYYANTHOLE DATED 05.10.2013.

EXHIBIT P2. THE TRUE COPY OF THE LOCATION MAP OF THE PROPERTY.

EXHIBIT P3. THE TRUE COPY OF THE PHOTOGRAPHS OF THE PROPERTY.

EXHIBIT P4. THE TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 11.10.2013.

EXHIBIT P5. THE TRUE COPY OF THE REPLY ISSUED BY THE AGRICULTURAL FIELD OFFICER, KRISHI BHAVAN, THRISSUR DATED 05.08.2011.

EXHIBIT P6. THE TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 29.08.2011.

EXHIBIT P7. THE TRUE COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED 24.02.2012.

EXHIBIT P8. THE TRUE COPY OF THE JUDGMENT DATED 18.03.2013 IN W.P.(C)NO.2710/2013.

EXHIBIT P9. THE TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 27.06.2013.

EXHIBIT P10. THE TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 20.07.2013.

EXHIBIT P11. THE TRUE COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT DATED 30.10.2013.

EXHIBIT P12. TRUE COPY OF THE JUDGMENT IN W.P.(C)NO.3042/2014 DATED 08.07.2014.

EXHIBIT P13. A TRUE COPY OF THE PROCEEDINGS DATED 17.10.2014 OF THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V.RAMAKRISHNA PILLAI, J

WPC No.33066 of 2014

Dated this the 30th day of June, 2015

JUDGMENT

Exts.P9 to P11 orders by which the petitioner's application for building permit was rejected is under challenge.

2. The petitioner is the Administrator of Sree Sankarankulangara Temple, one of the ancient temples situated in Thrissur Town. The Devaswom is in possession of 3.12 Acres of land in Sy.Nos.853, 854, 855/2, 856/2, 1805/2P and 1806/2 of Ayyanthole Village in Thrissur Taluk. It is a pucca dry land and situated in a commercial area. As per the draft data bank also it is a converted land. The petitioner proposed a Kalyana Mandapam in this property and submitted Ext.P4 application before the second respondent. Since it was not referred to the second respondent for necessary approval, the petitioner

approached this Court by filing WPC No.2710/2013 and by virtue of Ext.P8 judgment, this Court directed the second and third respondents to refer the matter to the first respondent. Thereafter on reference, the first respondent rejected the application by virtue of Ext.P9 order and it was communicated to the petitioner by virtue of Exts.P10 and P11 orders. The petitioner assailed the above orders in WPC No.3042/2014 and by virtue of Ext.P12 judgment, this Court quashed the above orders and directed the first respondent to re-consider the matter after conducting an inspection of the property. Accordingly, the first respondent inspected the property, heard the petitioner and found that it was a converted land, but the application was rejected finding that a part of the proposed plot is situated in the area earmarked as paddy field as per the sanctioned master plan for Thrissur Town by virtue of Ext.P13 order. It is with this background, the petitioner has approached this Court.

3. I have heard the learned counsel for the petitioner and the learned standing counsel for the respondent Corporation.

4. The learned counsel invited my attention to a Division Bench decision of this Court in ***Padmini v. State of Kerala*** [1999 (3) KLT 465] wherein it was held that no building permit can be refused to any person because there is a proposal to acquire the land in future. The learned counsel for the petitioner also invited my attention to a Division Bench decision of this Court in ***Corporation of Thrissur v Kunjilakutty*** (2014 KHC 2517). Reliance was also placed to the decision of the Apex court in ***Raju S. Jethmalani v. State of Maharastra*** [(2005) 11 SCC 222] wherein it was held that refusing to grant permits relying on obsolete DTP schemes is a clear violation of the provisions of the Constitution.

Viewed in that profile, this Court is of the view that the petitioner is entitled to get the reliefs prayed for.

Therefore, the writ petition is allowed. Exts.P9 to P11 are quashed and the respondent Corporation is directed to reconsider petitioner's application for building permit and grant permit within a period of one month from the date of receipt of a copy of this judgment.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

CSS/

true copy

P.S.TO JUDGE