

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 08TH DAY OF MARCH 2021 / 17TH PHALGUNA, 1942

WP(C).No.5905 OF 2021(K)

PETITIONER:

SUNNY MATHEW, AGED 65 YEARS
S/O. MATHEW, ELANJIKKAL HOUSE, BOLGATTY,
MULAVUKAD, ERNAKULAM-682 504

BY ADVS.
SRI.JOBY JACOB PULICKEKUDY
SRI.ANIL GEORGE

RESPONDENTS:

- 1 THE MULAVUKAD GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, MULAVUKAD,
ERNAKULAM-682 504
- 2 THE SECRETARY,
MULAVUKAD GRAMA PANCHAYATH, MULAVUKAD,
ERNAKULAM-682 504

R1-2 BY ADV. SRI.BRIJESH MOHAN
R1-2 BY ADV. SRI.R.RAJPRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 08.03.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.P.(C) No.5905 of 2021
-----**JUDGMENT**

Petitioner owns a building within the limits of the first respondent Panchayat. He constructed an additional structure over the existing building without obtaining building permit from the Panchayat. Later, the petitioner preferred Ext.P4 application for regularisation of the unauthorised construction effected by him. The said application has been rejected by the Secretary in terms of Ext.P5 communication. Ext.P5 communication is under challenge in the writ petition.

2. Heard the learned counsel for the petitioner as also the learned Standing Counsel for the respondents.

3. The learned counsel for the petitioner submits that the application for regularisation preferred by the petitioner has been rejected on account of the defects mentioned in Ext.P5 communication. It is stated that the petitioner is prepared to cure the defects mentioned in Ext.P5 communication and he could not do so since he was not given

an opportunity to cure the defects.

4. The learned Standing Counsel for the respondents submits that if the petitioner cures the defects mentioned in Ext.P5 communication, the competent authority of the Panchayat is prepared to consider the application afresh.

In the circumstances, Ext.P5 communication is set aside and the writ petition is disposed of granting two weeks time to the petitioner for curing all the defects mentioned in Ext.P5. Needless to say, if the petitioner cures all the defects mentioned in Ext.P5 communication, a fresh order shall be passed by the competent authority of the first respondent within two weeks thereafter.

**Sd/-
P.B.SURESH KUMAR
JUDGE**

ds 08.03.2021

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE PHOTOCOPY OF SALE DEED NO. 4166/2011 DATED 24.09.2011.
EXHIBIT P2	TRUE COPY OF POSSESSION CERTIFICATE IN RESPECT OF THE PROPERTY DATED 19.08.2015 ISSUED BY THE VILLAGE OFFICER, MULAVUKAD.
EXHIBIT P3	TRUE PHOTOCOPY OF NOTICE DATED 01.04.2017 ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P4	TRUE COPY OF APPLICATION FOR REGULARIZATION DATED 17.12.2020.
EXHIBIT P5	TRUE COPY OF NOTICE DATED 15.01.2021 INFORMING THE REJECTION OF APPLICATION ISSUED BY THE 2ND RESPONDENT.