

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

TUESDAY, THE 7TH DAY OF DECEMBER 2021 / 16TH AGRAHAYANA, 1943

WP (C) NO. 26924 OF 2021

PETITIONERS:

- 1 MOHAMED SHABEER
AGED 42 YEARS
S/O.MOHAMED PARAPURATH, PARAPURATH HOUSE, THALAKKDATHUR
P.O., MALAPPURAM DISTRICT-676013, REPRESENTED BY HIS
POWER OF ATTORNEY HOLDER, AHAMMED KOYA.T, AGED 66
YEARS, S/O.MAMMAD, THAZHATHAYIL HOUSE, P.O.PERUMUGHAM,
FEROKE, KOZHIKODE DISTRICT-673631.
- 2 AHAMMED KOYA.T,
AGED 66 YEARS
S/O.MAMMAD, THAZHATHAYIL HOUSE, P.O.PERUMUGHAM, FEROKE,
KOZHIKODE DISTRICT-673631.
BY ADV R.K.MURALEEDHARAN

RESPONDENTS:

- 1 THE REVENUE DIVISIONAL OFFICER
CIVIL STATION JUMA MASJID, SH29, ERANHIPPALAM,
KOZHIKODE DISTRICT-673020.
- 2 THE FEROKE MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, P.O.FEROKE, KOZHIKODE
DISTRICT-673631.
- 3 THE SECRETARY
FEROKE MUNICIPALITY, P.O.FEROKE, KOZHIKODE DISTRICT-
673631.
- 4 ASSISTANT ENGINEER,
FEROKE MUNICIPALITY, P.O.FEROKE, KOZHIKODE DISTRICT-
673631.
BY ADV SHRI.P.A.MOHAMMED SHAH, SC, FEROKE MUNICIPALITY

RIYAL DEVASSY-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.12.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 7th day of December 2021

This Writ Petition is filed seeking the following reliefs:-

(i) Issue a writ of certiorari or any other appropriate writ order or direction, quashing Ext.P4 order issued by the 4th respondent and also the proceedings issued vide Ext.P6 notice dated 16.02.2021 for cancellation of the building permit.

(ii) Issue a writ of mandamus or any other appropriate writ order or direction directing the respondents 32 to 4 to change the building permit issued vide Ext.P2 in the name of the 1st petitioner and also to allot building number and occupancy certificate to the 1st petitioner pending orders issued by the 1st respondent in Ext.P8 application.

2. Heard the learned counsel for the petitioner, the learned Government Pleader as well as the learned standing counsel appearing for respondents 2 to 4.

3. It is submitted by the learned counsel for the petitioner that the petitioner is the owner in possession of 2.326 Ares of land in Survey No.262/3B (262/35) if Feroke Amsom, Nalloor Desom of Kozhikode Taluk, in which a commercial building has been constructed on the strength

of Exhibit P2 building permit issued on 13.03.2019. It is submitted that when the petitioner approached the respondents for an occupancy certificate and numbering of the building, it was stated that the building is constructed in property which is shown as nilam in the basic tax register. The petitioner, therefore, submitted Exhibit P8 application, in Form No.6, for permission for use of the property for other purposes. It is submitted that the said application is not being considered and in the meanwhile the building of the petitioner is also not being permitted to put to use. Learned counsel for the petitioner submits that the construction was carried out on the basis of a valid building permit and that the respondents cannot, now, refuse to number the building.

Having heard the contentions advanced on either side, there will be a direction to the 1st respondent to take up Exhibit P8 application submitted by the petitioner and to consider and pass orders on the same after considering all relevant aspects of the matter and obtaining all reports from the Village Officer, taking note of Exhibit P7

Government Order as well. It is made clear that I have expressed no view on the merits of the matter and that the application is liable to be considered in accordance with law by the 1st respondent after considering all other relevant aspects. Appropriate orders shall be passed within a period of three months from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of the writ petition along with a copy of the judgment before the 1st respondent for compliance.

In the meanwhile, the 2nd respondent shall number the building of the petitioner provisionally and permit occupancy of the same, subject to the orders to be passed by the RDO on Exhibit P8, within a period of two weeks. The petitioner shall produce a copy of the writ petition along with a copy of the judgment before the 1st respondent for compliance.

This writ petition is ordered accordingly.

Sd/-
ANU SIVARAMAN
JUDGE

SSK/7/12

APPENDIX**PETITIONER'S EXHIBITS:**

Exhibit P1	A TRUE COPY OF THE ASSIGNMENT DEED NO.2043/2019 OF SRO FEROKHE DATED 26.07.2019.
Exhibit P2	A TRUE COPY OF THE BUILDING PERMIT NO.A4-BA(55931)/2019 DATED 13.03.2019 ISSUED IN FAVOUR OF THE 2ND PETITIONER.
Exhibit P3	A TRUE COPY OF THE PHOTOGRAPHS OF THE COMPLETED BUILDING.
Exhibit P4	A TRUE COPY OF THE COMMUNICATION F.E/2695/977/18-19 FROM THE 4TH RESPONDENT DATED 30.11.2020.
Exhibit P5	A TRUE COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL OFFICER, FEROKHE DATED 24.02.2021.
Exhibit P6	A TRUE COPY OF THE SHOWCASE NOTICE NO.F.E2/2695/977/18-19 DATED 16.02.2021 ISSUED BY THE 3RD RESPONDENT TO THE 2ND PETITIONER.
Exhibit P7	A TRUE COPY OF THE SRO NO.369/2021 DATED 25.02.2021 ISSUED BY THE GOVERNMENT, REVENUE (P) DEPARTMENT.
Exhibit P8	A TRUE COPY OF THE APPLICATION SUBMITTED UNDER FORM 6 BEFORE THE 1ST RESPONDENT DATED 22.11.2021 ALONG WITH THE CHALLAN RECEIPT.

RESPONDENTS' EXHIBITS: **NIL**

SSK

//TRUE COPY//

PA TO JUDGE