

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

TUESDAY, THE 13TH DAY OF FEBRUARY 2024 / 24TH MAGHA, 1945

WP(C) NO.5552 OF 2024

PETITIONER:

SHABEENA, AGED 38 YEARS
W/O.ABDUL JERISH, PARIYANGATTTU HOUSE,
PATTIPARAMBU.P.O., THRISSUR DISTRICT, PIN - 680588

BY ADVS.
K.R.ARUN KRISHNAN
DEEPA K.RADHAKRISHNAN
JISSMON A KURIAKOSE
SANAL C.S
SIDHARTHAN M.T.

RESPONDENTS:

- 1 STATE KERALA REPRESENTED BY ITS SECRETARY TO
GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001
- 2 THIRUVILWAMALA GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE THIRUVILLWAMALA GRAMA PANCHAYAT,
THIRUVILWAMALA.P.O., PIN - 680586
- 3 SECRETARY
THIRUVILLWAMALA GRAMA PANCHAYAT,
OFFICE OF THE THIRUVILLWAMALA GRAMA PANCHAYAT,
THIRUVILWAMALA.P.O., PIN - 680586

BY SMT.R.DEVISREE, GP
SRI.R.RAJ PRADEEP, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13.02.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

The petitioner and her husband are the joint owners in possession of an extent of 3.80 Ares of property comprised in Sy.No.1692/P-9 of Thiruvilwamala Village, Thalappilly Taluk, Thrissur District covered by Ext.P1 Sale Deed. They have filed Ext.P3 application for building permit for construction of a residential building in the said property. The 3rd respondent, the Secretary of the respondent Panchayat, issued Ext.P6 communication to them stating that they have to submit the sub division layout of the property. The petitioner submits that she has purchased only a small plot and she cannot be insisted for production of sub division layout. The petitioner relies on the decisions of this Court in Panjal Grama Panchayat v. Aneesh [2022 (2) KLT 653] and Nafeesa v. Chavakkad Municipality

[2018 (3) KLT 1] and submits that in respect of small extent of property, where a person intends to construct a residential building, there is no necessity for obtaining a development permit.

2. A development permit, under the Kerala Panchayat Building Rules, 2019, is required only when there is development of land or subdivision of land into plots. For the purpose of construction of residential building in a small plot of land, a development permit is not required. In Nafeesa [supra], this Court held as follows:

"5...unless in the hands of the purchaser of the smaller portion of land, an activity which attracts the definition of 'development of land', as noticed above, is involved, there would be no requirement for a person purchasing a plot of land for putting up a construction therein, to obtain a development permit prior to applying for a building permit for the said construction."

The dictum laid down in Nafeesa [supra] was reiterated by the Division Bench in Panjal

[supra].

In the light of the decisions in Panjal and Nafeesa [supra], I set aside Ext.P6. There will be a direction to the 3rd respondent to consider Ext.P3 application for building permit, as expeditiously as possible, at any rate, within a period of six weeks from the date of receipt of a certified copy of this judgment, if the application is otherwise in order.

The writ petition is disposed of.

Sd/ -

**MURALI PURUSHOTHAMAN
JUDGE**

sp/13/02/2024

APPENDIX**PETITIONER'S EXHIBITS:-**

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|-------------------|--|
| Exhibit-P1 | A TRUE COPY OF THE REGISTERED SALE DEED NO. 2028/2021 OF PAZHAYANNUR S.R.O, THRISSUR DISTRICT DATED 31.12.2021 EXECUTED IN FAVOUR OF THE PETITIONER AND HER HUSBAND |
| Exhibit-P2 | A TRUE COPY OF LAND TAX RECEIPT PAID ON 20.10.2023 |
| Exhibit-P3 | A TRUE COPY OF THE APPLICATION FOR BUILDING PERMIT SUBMITTED BEFORE THE 2ND RESPONDENT DATED 09.11.2023 |
| Exhibit-P4 | A TRUE COPY OF THE RECEIPT DATED 23.11.2023 OF FEE FOR EXHIBIT P3 APPLICATION ISSUED BY THE OFFICE OF THE 2ND RESPONDENT |
| Exhibit-P5 | A TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT DATED 23.11.2023 ISSUED BY THE OFFICE OF THE 2ND RESPONDENT |
| Exhibit-P6 | . A TRUE COPY OF THE COMMUNICATION DATED 07.12.2023 ISSUED BY THE 3RD RESPONDENT |
| Exhibit-P7 | A TRUE COPY OF THE JUDGMENT DATED 10.04.2013 IN WP (C) NO. 20204/2012 OF THIS HONOURABLE COURT |
| Exhibit-P8 | A COPY OF THE JUDGMENT DATED 20.10.2011 IN WP (C) NO. 23281/2011 OF THIS HONOURABLE COURT |
| Exhibit-P9 | A TRUE COPY OF THE JUDGMENT DATED 08.02.2016 PASSED BY THIS HONOURABLE COURT IN W.P. (C) NO 25951 OF 2015 |