



GOVERNMENT OF KERALA

Abstract

Local Self Government Department- Judgment in WP(C) No.6098/2012 filed by Sri. C.P.A Muhammed Kutty Son of Aboobacker, Nazeema - Iringole, Perumbavour. Compliance of Court Direction --Orders Issued.

LOCAL SELF GOVERNMENT (R B) DEPARTMENT

G.O.(Rt) No. 1420/2012/LSGD Dated, Thiruvananthapuram, 23/05/2012

Read:- Judgment dated 15.3.2012 in WP(C) No.6098/12 filed by Sri. C.P.A Muhammed *Kutty*

ORDER

The Hon'ble High Court in Judgment dated 15.3.2012 in WP(C) No. 6098/12 filed by Sri. C.P.A Muhammed Kutty had directed the Government (Ist respondent) to consider Exhibit P11 and to take an appropriate decision thereof, after affording an opportunity of personal hearing to the petitioner at the earliest possible, at any rate within a period of two months from the date of receipt of a copy of the judgment

2 . Exhibit P 11 representation dated 02.3.2012, is the request of the petitioner to direct the municipality to regularize the construction in survey No 256 of Perumbavour village and to number the same after issuing occupancy certificate. The petitioner was heard in accordance with the direction of the Hon'ble High Court in the presence of Senior Town Planner (Vigilance) and Secretary, Perumbavour Municipality.

3.The Advocate for the petitioner has explained that on 26.5.1987, Sri.Muhammed Kutty was granted permit for construction of a multi- storied building consisting of cellar, ground floor, 1st floor, 2nd floor and 3rd floor. Building permit was issued under the Kerala Building Rules, 1984. On account of the delay in construction, the time for completion was extended on different occasions up to 23.12.2000. The structural work was completed well before 23.12.2000. However, on account of delay in getting No Objection Certificate from the Kerala Fire Services Department, the Completion Certificate could not be submitted for getting the building numbered. The Fire Services Department issued the No Objection Certificate only on 6.12.2004. After production of No Objection Certificate from Fire Services Department, on 21.12.2008, the Municipality issued notice for production of Completion Certificate. At that time the internal works relating to lift and light fittings were not completed. Accordingly, on 17.12.2008, 6 months time was sought for production of Completion Certificate in all respect. Thereafter, due to certain unforeseen contingencies and financial constraints, the Petitioner, Sri. Muhammed Kutty, could submit the Completion Certificate in time and submitted on 24.5.2011.

4.The Government issued communication dated 20.12.2011 which was later corrected on 16.2.2012, in which it is stated that the Municipality has power to regularise the construction under Rule 143 of the Municipality Building Rules subject to the condition that the construction should satisfy the prevailing building rules.

5.Later the Municipality numbered the building on 1.3.12 as unauthorized (UA). The Secretary Perumbavoor Municipality has reiterated that the construction was carried out as per the approved plan and suggested that a lenient view may be taken in the regard. The petitioner has renewed

the building permit only upto 23.12.2000. Any loss on account of this can be realized from the petitioner.

6. The KMBR came into force in the Municipalities on 1.10.99. As the petitioner has obtained the building permit in 1987, the provisions of KMBR 99 is not applicable to the said construction. (vide Cir. No.31019/RA1/2011/LSGD dtd. 22.6.2011).

7. Government have examined the matter in detail and are pleased to direct the Secretary, Perumbavoor Municipality to regularise the building owned by Sri. C.P.A.Muhammed Kutty, Nazeema, Iringole.P.O., Perumbavoor subject to the condition that the municipality shall realise an amount equivalent to the permit fee from the owner of the building.

8. The directions contained in the judgment read above are thus complied with.

By Order of the Governor

RAJESH KUMAR SINGH
Secretary to Government.

To

Sri. C.P.A.Muhammed Kutty, Nazeema, Iringole.P.O., Perumbavoor

The Advocate General, Kerala Ernakulam (with covering letter)

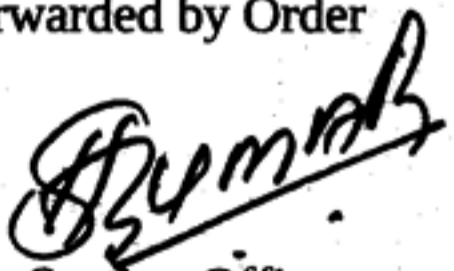
The Chief Town Planner, Thiruvananthapuram.

The Secretary, Perumbavoor Municipality, Perumbavoor, Ernakulam.

The Director, Information Kerala Mission, Thiruvananthapuram

stock file / O/C

Forwarded by Order


Section Officer.