



GOVERNMENT OF KERALA

Abstract

Local Self Government Department-- Judgment in SLP(C) No.12957/2011 filed by M/s Puravankara Projects Limited compliance of Court direction -Orders Issued

LOCAL SELF GOVERNMENT (R B) DEPARTMENT

G.O.(Rt) No.412/2013/LSGD,

Dated, Thiruvananthapuram, 15.02.2013

- Read:-
- 1 Judgment dated 10.11.2010 in WP(C) No.9903/2008
 2. Judgment dated 29.3.2011 in writ appeal No. 91/2011
 3. Judgment dated 24.4.2012 in SLP(C) No.12957/2011 filed by M/s Puravankara Projects Limited
 4. Letter dated 27.6.2012 of Puravankara Projects Limited.

ORDER

The Residential Project in Survey Nos 325/4,5, 326/1.4.5 of Kakkanad village was given a No Objection Certificate on 30.1.2006 from the erstwhile Thrikkakara Grama Panchayat (now Municipality), informing M/s Puravankara Projects Limited that the Kerala Municipality Building Rules were not made applicable to said Panchayat but the construction was subject to the conditions that (1) 3 meter distance should be left from the boundary adjacent to the PW D roads and earmarked Panchayat roads (2) adequate draining facility should also be provided.

2. The provisions of the Kerala Municipality Building Rules were extended to the Thrikkakara Grama Panchayat with effect from 6.11.2006. A few persons filed a writ petition (9903/2008) in the Hon'ble High Court against this construction, contending that as Kerala Municipality Building Rules were extended to the Thrikkakara Grama Panchayat with effect from 15.11.2006, the builders should have obtained the building permit and that the NOC obtained from the Panchayat on 30.1.2006 was not sufficient . An interim Order was passed by Hon'ble High Court directing the applicant to maintain status quo as on that day. The Interim Order was further modified by order dated 2.5.2008, permitting the construction of a total built up area of 1,81,844 sq ft subject to the result of the writ petition.

3. The Hon'ble High Court in its Judgment read as 1st paper above has dismissed WP(C) noting that the NOC issued was valid. The Court also observed that it was upto the authorities concerned to examine if the project was in conformity with town planning schemes. Aggrieved by the judgment, the petitioners of the writ petition filed a writ appeal WANO.91/2011 dated 27.1.2011 before the Hon'ble High Court. The Division Bench of the Hon'ble High Court in its final Judgment read as 2nd paper above allowed the writ appeal directing that the total FAR of the proposed construction be limited to 2.5. Aggrieved by the judgment of the Division Bench of the Hon'ble High Court in the Writ Appeal, M/s Puravankara Projects Ltd filed a special leave petition SLP(C) No 12957 of 2011 in the Supreme Court.

4. The Hon'ble Supreme Court has dismissed the SLP(C) No 12957/2011 on 24.4.2012 with a clarification that the Petitioner herein would be still at liberty to apply under rule 15 A of the Kerala Municipality Building Rules 1999 to the prescribed authority / authorities, once such an application is moved by the Petitioner, then the prescribed authority / authorities, will decide in accordance with law at an early date on merits without being influenced by any of the observations made by the Division Bench in impugned Order. The Hon'ble Supreme Court further observed that the petitioner would be at liberty to file such an application within a period of 30 days from the date of Judgment under intimation to the respondent and the prescribed authority / authorities thereafter would fix the matter for hearing of the parties in that event the original petitioners would also get an opportunity of hearing .

5. The Petitioner was heard in accordance with the direction of Hon'ble Supreme Court on 30.11.2012 and 14.12.2012. The Petitioner has stated that they have submitted an application on 8.5.2012 under rule 15 A of Kerala Municipality Building Rules 1999, before the Secretary Thrikkakara Municipality which is the prescribed authority in this case. In this application they requested the secretary to extend / renew the building permit/ No A 4-1/2000 dated 30.1.2006 taking into account that the fact that the matter has been in court Since march 2008.

6. Government have examined the matter in detail and found that Hon'ble Supreme Court in Judgment dated 24.4.2012 in SLP(C) No. 12957/2011 has permitted Puravankara Projects Private Limited to make an application under rule 15A of Kerala Municipality Building Rules before the prescribed authority and the application permitted to be filed has to be considered as an application under the rule 15A of the Kerala Municipality

Building Rules and to consider the same on merits without being influenced by any of the observations of the Division Bench.

7. In the circumstances Government are pleased to order that the Secretary, Thrikkakara Municipality will consider the application filed by the Puravankara Projects Limited as ordered by the Hon'ble Supreme Court, positively and renew the NOC/permit for a further period of three years and to complete this procedure within 15 days under intimation to Government and the Puravankara Projects Limited will remit the required fees for renewal of the NOC/permit.

8. The directions contained in the judgment read as 3rd paper above is thus complied with.

By Order of the Governor
Dr. Rajan Khobragade
Secretary to Government

To

Sri. Renjith Thomas,
Regional Head - Kerala , Puravankara Projects Limited,G-261,
Panampilly Lane, Kochi 682 036.
Advocate General, Ernakulam (with C/L).
Executive Director, Information Kerala Mission, Thiruvananthapuram
Secretary, Thrikkakara Municipality
Chief Town Planner, Thiruvananthapuram
Stock file / Office Copy.

Forwarded/ By Order


Section Officer

