



GOVERNMENT OF KERALA
Abstract

Local Self Government Department – Judgment dated 10.11.17 of Hon'ble High Court of Kerala in W.P. (C) No.3123/2017 filed by Sri. K.H. Ashraf, Mangalasseri House, Vattekkunnamkara, North Kalamassery P.O., Ernakulam – Compliance of Court direction - Orders issued.

LOCAL SELF GOVERNMENT (RB) DEPARTMENT

G.O. (Rt) No.797/2018/LSGD.

Dated, Thiruvananthapuram, 24.03.2018.

Read: - 1) Judgment dated 10/11/2017 of Hon'ble High Court in W.P.(C) No.3123 of 2017 filed by Sri. K.H. Ashraf.
2) Report of CTP VIG/207/18 dated 16/3/2018.

ORDER

Sri. K.H. Ashraf, Mangalasseri House, Vattekkunnamkara, North Kalamassery P.O., Ernakulam filed a W.P. © No.3123/2017 before the Hon'ble High Court of Kerala, for directing the Secretary, Kalamassery Municipality to issue occupancy certificate and to assign building number for the building in survey number 347/27 of Thrikkakara North Village Kanayanur Taluk, Ernakulam District. The Hon'ble High Court of Kerala in its judgment read as 1st paper above directed the 1st respondent ie, Secretary, Local Self Government Department to immediately consider the case of the petitioner with regard to his claim for occupancy and numbering of the building. It was also directed that the Government shall specially consider the case of petitioner and the Municipality that the construction of 1st and 2nd floors was carried out over the existing building which was there from 1987 onwards. The 1st respondent shall also consider that the petitioner had made constructions on the strength of the building permit duly granted by the Municipality in 2011 and subject to all clearances and no objections as received from the competent authority. The Government shall take a decision in the matter within a period of two months from the date of receipt of a copy of the judgment, after hearing the petitioner as well as the 2nd respondent. In the meanwhile the 2nd respondent shall provisionally number the petitioner's building to enable him to utilise the building. The petitioner shall produce a copy of this judgment before the respondent for compliance”.

2. As directed by the Hon'ble High Court of Kerala, a hearing was conducted on 14.2.18 by the undersigned. The petitioner, Secretary, Kalamassery Municipality, Town Planner (Vigilance) and Deputy Town Planner (Vigilance) were present for the hearing.

3. At the time of hearing, the Town Planner and the Municipal Secretary informed that they inspected the building on 9.2.18. The projected slab of the

building has been cut and .8m remaining is retained as entrance to fire staircase . Old building has been constructed in 1987. And the set back for new building is correct.

4. The Chief Town Planner has informed that some conditions has to be satisfied for issuing the building number. At that time, the petitioner has agreed to fulfill the following conditions within one month.

- 1) Basement floor will be reconstructed with 3 meters setback from Pathirikkad Temple road.
- 2) Coverage should be set by 50%
- 3) Varandah portion of 1st and 2nd floor should be used as shade.
- 4) Emergency stair should have access from all parts of the building
- 5) Rule 40A – should be satisfied
- 6) Basement should be provided for parking

5. The 2nd respondent , Secretary, Kalamassery Municipality has informed that, as per the direction of Hon'ble High Court, the provisional building number has been issued to the building on satisfaction of condition (2) mentioned above.

6. As per the direction of the Government, the Chief Town Planner (Vigilance) submitted a report regarding the conditions to be satisfied for issuing the building number.

7. As per the report read as 2nd paper above, the Chief Town Planner (Vigilance) has recommended to consider the building for regularisation by the Municipality in accordance to Rule 143 based on the following conditions and in accordance with the provisions of KMBR and sanctioned structure plan for Kochi city:-

- a. The setback of the ground floor (basement floor as per Municipality) should be 3m from both the main road and side road.
- b. Coverage of the building should be reduced to 50% in accordance with the provisions of the sanctioned Structure Plan for Kochi city
- c. The passage area with width 80cm in the first, second and third floors should be used as weather shade and not as passage
- d. Access should be provided from every part of the building to the fire escape stair in all floors
- e. Provisions of rule 40A – facilities for persons with disabilities should be complied with
- f. The parking space in the ground floor should to be used only for parking purpose.

8. Government have examined the case in detail and the recommendations of the Chief Town Planner (Vigilance) has been accepted. On the basis of the recommendations of the Chief Town Planner (Vigilance), the petitioner is directed to

fulfill the above conditions for issuing the building number to the building in Survey number 347/27 in Thrikkakara North Village, Kanayannur Talluk, Ernakulam District.

9. On satisfaction of the above conditions by the petitioner, the Secretary, Kalamassery Municipality will consider the building for regularization in accordance to Rule 143 of KMBR.

10. Chief Town Planner (Vigilance) has also reported that permit dated 25.10.11 and 4.10.12 were issued with violations of KMBR & sanctioned structure plan of Kochi city and recommended to obtain explanation from the official of Municipality who has issued permits with violation. Hence Government hereby direct Secretary, Kalamassery Municipality to furnish explanation to Government as to above.

11. Thus the direction contained in the judgment read as 1st paper above is complied with.

(By Order of the Governor)

STELLA LITTLE FLOWER M.K.
Joint Secretary to Government

To

Sri. K.H. Ashraf, Mangalasseri House, Vattekunnamkara, North
Kalamassery P.O., Ernakulam

The Advocate General, Ernakulam.

The Secretary, Kalamassery Municipality

The Chief Town Planner, Thiruvananthapuram

The Chief Town Planner (Vigilance), Thiruvananthapuram

The Senior Town Planner, Ernakulam

✓ The Executive Director, Information Kerala Mission, Thiruvananthapuram.

(for publishing this order in website)

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Section Officer

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