

Mini Vs. the Pala Municipality

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Court : Kerala

Decided On : Sep-04-2013

Judge : Honourable Mr.Justice K.Surendra Mohan

Appellant : Mini

Respondent : The Pala Municipality

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN WEDNESDAY, THE 4TH DAY OF SEPTEMBER 2013 13TH BHADRA, 1935 WP(C).No. 18728 of 2013 (M) ----- PETITIONERS: ----- 1. MINI W/O.TOMY, EDACHERRY PARAMBIL, KADAPATTOOR POST PALA - 686574, KOTTAYAM DIST.

2. LATHA W/O.PRATHAPACHANDRAN, MUNDAMATTAM HOUSE ARUNAPURAM POST, PALA, KOTTAYAM DIST. 686 574. BY ADVS.SRI.MATHEW JOHN (K) SRI.DOMSON J.VATTAKUZHY RESPONDENTS: ----- 1. THE PALA MUNICIPALITY REPRESENTED BY ITS SECRETARY PALA - 686 575.

2. SECRETARY, THE PALA MUNICIPALITY, PALA - 686 575 3. THE DISTRICT TOWN PLANNER, KOTTAYAM - 686 001 R1-R2 BY ADV. SRI.V.M.KURIAN R3 BY GOVERNMENT PLEADER SRI.RENNY STEPHEN CHAMEPARAMBIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 0409-2013,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: VK
WP(C).No. 18728 of 2013 (M) ----- APPENDIX -----
PETITIONER(S)' EXHIBITS ----- EXT.P-1: A TRUE COPY OF THE
DOCUMENT OF TITLE DATED 10.1.2011 IN THE NAME OF THE PETITIONERS.
EXT.P-2: A TRUE COPY OF THE BUILDING PERMIT DATED 9.11.2010 ISSUED
IN FAVOUR OF MARY SEBASTIAN. EXT.P-3: A TRUE COPY OF THE
APPLICATION BY THE PETITIONERS DATED 18.10.2012 BEFORE THE 2D
RESPONDENT. EXT.P-4: A TRUE COPY OF THE REPLY DATED 27.12.2012 BY
THE TOWN PLANNER TO THE 1ST RESPONDENT. EXT.P-5: A TRUE COPY OF
THE JUDGEMENT DATED 21.1.2013 IN WPC NO.28706 OF 2012
RESPONDENT(S)' EXHIBITS : NIL ----- / TRUE COPY / P.A. TO
JUDGE VK K.SURENDRA MOHAN, J.

----- W.P.(C) No.18728 of 2013-M
----- Dated this the 4th day of September, 2013

JUDGMENT

The petitioners have purchased an item of immovable property as per Exhibit P1 sale deed from one Mary Sebastian. The property has been transferred to the petitioners along with Exhibit P2 building permit that has been granted to the vendor by the second respondent. The petitioners thereafter sought for transfer of the building permit to their names. The second respondent has thereupon sought a clarification from the third respondent as per Exhibit P3. The petitioner is aggrieved by the said action. No orders have been passed on the application of the petitioners also, till date. The petitioners therefore seek the issue of appropriate directions to the second respondent.

2. Advocate V.M.Kurian appears for respondents 1 and 2. The Government Pleader appears for the third :-2:- W.P.(C) No.18728 of 2013-M respondent. Advocate Mathew John, who appears for the petitioner places reliance on Exhibit P5 judgment in W.P. (C).No.28706 of 2012 and connected cases to contend that it has been held by this Court that there is no Approved Master Plan applicable to the Pala Municipality. The said judgment has become final. Therefore, it is contended that Exhibit P3 is without any justification, whatsoever.

3. It is not in dispute that Exhibit P2 building permit has already been granted to the vendor of the petitioners. What the petitioners have sought for is only a transfer thereof to their names. Therefore, the considerations that should weigh while granting building permits would not be relevant in the present case. This is for the reason that a building permit has already been granted in respect of the said property. It is also worthwhile to note that in Exhibit P5 judgment, this Court has held in a similar case that there is no approved Master Plan applicable to the Pala Municipality. For the said reason also, issue of Exhibit P3 -:3:- W.P.(C) No.18728 of 2013-M seeking a clarification from the third respondent is uncalled for. In view of the above, the petitioners are entitled to succeed. This writ petition is therefore disposed of directing the second respondent to consider the application submitted by the petitioners for the transfer of Exhibit P2 building permit to their names, notwithstanding Exhibit P3 and to pass appropriate orders thereon, as expeditiously as possible and at any rate, within a period of one month of the date of receipt of a copy of this judgment. Sd/- K.SURENDRA MOHAN, JUDGE kkj

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