

ITEM NO.49

COURT NO.11

SECTION XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).22365/2010

(From the judgement and order dated 25/02/2010 in
of The HIGH COURT OF KERALA AT ERNAKULAM)

WA No. 2173/2008

THIRUVANANTHAPURAM CITIZENS PROTEN.FORUM

Petitioner(s)

VERSUS

SREE PADMANABHA PROPERTY DEVEL.P.LTD.&OR

Respondent(s)

(With appln(s) for permission to place addl. documents on record and
prayer for interim relief and office report)

Date: 04/04/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Nishe Rajen Shonker,Adv.

For Respondent(s) Mr. Pallav Shishodia, Sr.Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Vijay Kumar,Adv.

Mr. C.S. Rajan, Sr.Adv.
Mr. A. Raghunath ,Adv

Mr. Yasobant Das, Sr.Adv.
Mr. R. Sathish ,Adv
[for State of Kerala]

UPON hearing counsel the Court made the following

O R D E R

This petition is directed against the
judgment of the Division Bench of the Kerala High Court
whereby the writ appeal preferred by respondent no.1
against the order of the learned Single Judge, who
quashed the order of the Tribunal for Local Self

2

Government Institutions (for short "the Tribunal")was
allowed.

Respondent No. 1 purchased land measuring
14.700 cents situated in Vanchiyoor village by
registered sale deed dated 10.03.2005 and started
construction of building after obtaining permission
from Corporation of Thiruvananthapuram (for short "the
Corporation"). The petitioner filed a complaint
against the permission accorded to respondent No.1 by
contending that the area in which the land falls has
been declared as heritage zone. The Corporation
entertained the complaint and directed respondent No.1
to stop the construction. Later on, the Tribunal
directed the Corporation to consider the matter and
pass appropriate order after hearing the parties. In
furtherance of the direction given by the Tribunal, the

Corporation re-examined the matter and passed order dated 11.08.2006 whereby the permission granted to respondent No.1 was cancelled. The Tribunal allowed the appeal filed by respondent No.1 and quashed order dated 11.08.2006.

The petitioner challenged the order of the Tribunal in Writ Petition No. 8101 of 2007. The Learned Single Judge allowed the Writ Petition along with Writ Petition 24546 of 2007 and remitted the case to the Tribunal for fresh consideration.

The Division Bench of the High Court allowed the writ appeals preferred by respondent No.1 and set aside the order of the learned Single Judge by observing that the petitioner herein has failed to produce any evidence to show that the site on which respondent No.1 is constructing building is part of the heritage zone.

3

The arguments in this case were heard on 28.3.2011 and the case was adjourned for today because the learned counsel for the petitioner wanted to place before the Court copy of the notification issued by the State Government declaring Survey No.683 (disputed land) as part of the heritage zone.

Today, learned counsel for the petitioner candidly stated that he is not in a position to produce copy of the notification by which the disputed area was declared as heritage zone. He, however, relied upon some photographs and papers downloaded from the site of the Government of Kerala and tried to impress upon the Court that the building constructed by respondent no.1 falls within the heritage zone.

Learned senior counsel appearing for the State of Kerala submitted that copy of the notification issued by the competent authority declaring the area in which the building of respondent no.1 has come up as heritage zone is not available in the record made available to him.

We have considered the entire matter. Since the petitioner and the State Government have failed to place before the Court copy of the notification by which survey No. 683 of village Vanchiyoor was declared as a part of the heritage zone, we do not find any valid ground, much less, justification to interfere with the impugned judgment.

The special leave petition is accordingly dismissed. Interim order passed on 2.8.2010 shall automatically stand vacated.

4

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master