

by the Municipality. In this view, the appeal is dismissed but without any order as to cost. The Municipality is directed to proceed in finalising and confirming the highest bid offered by Muhammed M.P. in the reaction conducted by the Municipality on 23.1.1996.

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*P.A. Mohammed J.*

Hassan v. Corporation of Calicut

*Municipalities Act, 1994, S. 393 (1)(vii) - Application for permission to construct building - Cannot be rejected on the ground that the land is proposed to be acquired for acquisition.*

What is contained in clause (vii) is that 'the land is under acquisition proceedings'. This clause contemplates an existing land acquisition proceeding and nothing else. Hence in this case, the land in question cannot be considered to be a land 'under acquisition proceedings' in view of the withdrawal of the acquisition proceedings by the Government under sub-s. (1) of S. 52 of the Kerala Land Acquisition Act, 1961. The Land Acquisition Act is the law which restricts the enjoyment of land by the petitioners. There must be strict compliance of the provisions of this law before the enjoyment of land by the petitioners is restrained. The grant of permit for construction of buildings is regulated or controlled by the provisions contained in the Kerala Municipalities Act, 1994. There is no case for the Corporation that any of the provisions contained in the said Act has been violated by the petitioners while applying for such permission. The only ground for rejection of the permission as pointed out earlier is that the land is proposed to be acquired by the Corporation. The acquisition proceedings have not been commenced by the Land Acquisition Officer authorised in this behalf. What is available is only a resolution passed by the Corporation for fresh acquisition in spite of the withdrawal of the earlier notification under sub-s. (1) of S. 52. As matters stand now there is no existing notification under S. 3(1) of the Act declaring that this particular land is required for the public purpose. Therefore, the ground alleged for not granting permission to construct the building is only a anticipated land acquisition proceeding and not an existing one. The right of enjoyment of land available to the petitioners cannot therefore be taken away on such anticipated grounds. Therefore, the reason for rejection of permission to construct the buildings in these cases cannot be sustained under any circumstances. (Paras. 4 & 6)

*M.A. Mahu & M.A. Fayaz*

For Petitioners

*K.P.G. Menon & Govt. Pleader (C.E. Unnikrishnan)*

For Respondents