



## GOVERNMENT OF KERALA

### Abstract

**Local Self Government Department- Judgment of the Hon'ble High Court in WP(C) No.28678/2022 dated 16/07/2025- Complied with- Orders issued.**

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### LOCAL SELF GOVERNMENT (RD) DEPARTMENT

G.O.(Rt)No.537/2026/LSGD Dated, Thiruvananthapuram, 02-03-2026

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- Read:-
1. Judgment of the Hon'ble High Court dated 16/07/2025 in WP(C) No.28678/2022 filed by Sri. Dalas Varghese and others
  2. Representation by Sri. Dalas Varghese and others dated 29/07/2025 submitted before the Secretary, Thrikkakara Municipality.
  3. Letter No.LSGD/PD/8219/2024-TCPA2 dated 23/10/2025 from Chief Town Planner (Planning), LSGD, Thiruvananthapuram

### ORDER

The Hon'ble High Court of Kerala, vide judgment dated 16/07/2025 in WP(C) No. 28678/2022, directed Sri. Dalas Varghese and others (petitioners therein) to submit a request for revision of the existing Master Plan and Detailed Town Planning Scheme so as to reflect the actual development in the area where the subject property is situated. The petitioners were directed to submit such request, along with supporting documents and relevant judgments, before the Secretary, Thrikkakara Municipality (4th respondent). The Secretary was directed to forward the same, together with the Municipality's views and details

of existing developments and permitted buildings, to the Chief Town Planner, Government of Kerala, who in turn was to forward the proposal with remarks to the Government (1st respondent) for appropriate decision after affording an opportunity of hearing to the petitioners and respondents 3 and 4.

2. In compliance with the above judgment, Sri. Dalas Varghese and others submitted a request for dispensation/modification before the Secretary, Thrikkakkara Municipality. The same was forwarded by the Chief Town Planner (Planning) to Government along with details of existing developments and permitted buildings.

3. The Secretary, Local Self Government Department, heard Sri. George E. George, representative of Sri. Dalas Varghese, on 18/11/2025, in the presence of the Secretary, Thrikkakkara Municipality and the Chief Town Planner (Planning).

4. Upon hearing his arguments, examination of the various judgements as directed by the Court and the rules and facts thereupon, the following aspects were noted;

- As per the Town & Country Planning Act,2016 a master plan and its zone indicates the manner in which use of land is to be carried out.
- In the instant case, all the land are notified for the information of the public and the process of preparation of master plan follows strict statutory procedure. Variations are also required, which are also considered wherever necessary.
- In the above case, the application is for taking a single case out of the agricultural zone and develop as commercial zone. This will defeat the very purpose of the preparation of master plans and land use zoning.
- In 2019(3) KLT 433(Regional Town Planner Vs Muhammed Rasheed), WA No. 1589/2017 & other connected cases, the appeals

preferred by the State with regard to the propriety of the directions issued by the Court, to consider the application for building permit submitted by the writ petitioners in accordance with the provisions of KMBR-1999 by ignoring the objection that was raised by the respective municipalities with regard to the proposed construction of offending the zoning regulation that existed under the various district town planning schemes DTP schemes that were in force. On 12.06.2019 (in 2019(3) KLT 433), Hon'ble HC held that "*the Secretary of a local authority while issuing building permits in terms of the respective rules he is statutory obliged to ensure that the construction in respect of which the permit issued does not breach the provisions of any law. A validity framed and duly notified scheme under a Town Planning Act would come within the ambit of the term "other law" for the purpose of the Kerala municipality building rules or the Kerala Panchayat building rules.* Hon'ble Division Bench allowed the appeals by setting aside the impugned judgements to the extent they directed the local authority concerned to consider the application for building permit submitted by the writ petitioners without reference to the zoning provisions under the DTP schemes in force. In RP No.815/2022, State Vs Earthspace Builders and Developers, on 26.07.2023, the Hon'ble Division Bench upheld the above findings. But the concept of zoning as a whole is not challenged here.

5. It is evident from the above statutory and legal positions that the zoning classification of a particular land parcel cannot be normally varied in isolation, disregarding similarly situated lands within the same zone as a whole. The subject property comprises 124.60 Ares of land situated in Kakkanad Village, Thrikkakkara Municipality, included in the Agricultural Zone under the approved Structural Plan for Central City Kochi. As per the report of the Town Planner, Kochi, the land is bounded on the north by dry cultivation land, on the south and

west by a canal, and on the east by dry cultivation land (owned by the applicant). The plot lies approximately 20 metres below the municipal road and is accessed through a private road.

6. As per the Court direction in this case, the judgements where permits were awarded in the three cases in Thrikkakkara municipality and Kochi Corporation ignoring the zoning were also examined to arrive at a decision. But none of these cases were regarding the absolute change of zoning in the master plan, which is more of permanent nature, instead that of granting building permit in individual cases, which applies only to that land parcel and does not affect zoning in any way.

6. Government have examined the matter in detail. It is hereby ordered that the request for modification/dispensation in respect of 124.60 Ares of land comprised in Re-Survey Nos. 586/1, 586/1-2, 586/2 and 586/2-2 of Thrikkakkara Municipality, presently included in the Agricultural Zone under the existing Structural Plan for Kochi, cannot be allowed. However, considering the facts placed by the petitioner before the Hon.Court and Government, the Chief Town Planner and the concerned local bodies may, examine the need and scope for variation of the existing Structural Plan for Kochi in light of evolving land use patterns and developmental scenarios in Kochi City and adjoining areas, by complying the due process of law.

7. The judgment dated 16/07/2025 in WP(C) No. 28678/2022 stands complied with accordingly

(By order of the Governor)  
ANUPAMA T V I A S  
SECRETARY

To:

The Advocate General, Kerala( With C/L)

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Chakkalamoolayil House, Kusumagiri P.O, Kakkanad, Kochi-682 203.  
The Chief Town Planner(Planning), Thiruvannthapuram  
The Secretary, Thrikkakara Municipality  
The Information Officer, Web & New Media  
Stock File

Forwarded /By order

Section Officer

Copy to: Private Secretary to Hon'ble Minister, LSGD  
CA to Principal Secretary, LSGD  
CA to Secretary, LSGD