

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

RP.No. 409 of 2014 () IN WP(C).1574/2014

AGAINST THE JUDGMENT IN WP(C) 1574/2014 of HIGH COURT OF KERALA

REVIEW PETITIONER(S)/PETITIONER/9TH RESPONDENT:

SREE MURUGA BRICKS
REPRESENTED BY ITS PROPRIETOR, SRI. A.T.RAMASWAMY
S/O. NARAYANAN THANKAPPAN, AGED 52 YRS
ATHIKUZHAYIL HOUSE, MEEMBARA P.O., ERNAKULAM-682308.

BY ADVS.SRI.A.T.ANILKUMAR
SMT.V.SHYLAJA

RESPONDENT(S)/RESPONDENTS/PETITIONER/RESPONDENTS:

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1. M.V. CHERIAN
MARIKKARA PUTHENPURAYIL HOUSE, MEEMPARA P.O.
ERNAKULAM.
 2. THE MANAGER
DISTRICT INDUSTRIES CENTRE
S.I.D.C.O. BUILDING KADAVANTHRA GANDHINAGAR
ERNAKULAM-20.
 3. KERALA STATE POLLUTION CONTROL BOARD
REPRESENTED BY ITS SECRETARY, PATTAM
THIRUVANANTHAPURAM-695004.
 4. ENVIRONMENTAL ENGINEER
KERALA STATE POLLUTION CONTROL BOARD
DISTRICT OFFICE, GANDHI NAGAR, COCHIN-20.

5. SENIOR TOWN PLANNER
REGIONAL TOWN PLANNING OFFICE, KADAVANTHRA,
ERNAKULAM
KOCHI-682620.
6. DISTRICT MEDICAL OFFICER (HEALTH)
PARK AVENUE ROAD, ERNAKULAM-682011.
7. DISTRICT COLLECTOR
ERNAKULAM-682021.
8. POOTHRIKKA GRAMA PANCHAYATH
POOTHRIKKA P.O., ERNAKULAM DISTRICT-682308
REPRESENTED BY ITS SECRETARY.
9. SECRETARY
POOTHRIKKA GRAMA PANCHAYATH, POOTHRIKKA P.O.
ERNAKULAM DISTRICT-682308.
10. NARAYANAN THANKAPPAN
ATHIKUZHAYIL HOUSE, MEEMBARA P.O.,
ERNAKULAM-682308.

R3,R4 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD
R8-R9 BY ADV. SRI.SAJEEV KUMAR K.GOPAL
BY GOVERNMENT PLEADER SRI. ABDUL RAHMAN FOR R2 & R6
BY SRI.SHEJI P.ABRAHAM

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
25-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

A.M. SHAFFIQUE, J.

.....
R.P.No. 409 of 2014
in
W.P. (C) No. 1574 of 2014
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Dated : 25 - 02 - 2015

ORDER

Heard the learned counsel appearing for the Review Petitioner and the learned counsel appearing for respondents.

2. This Review Petition has been filed on account of certain difficulties faced by the 9th respondent in the matter relating to operating a Unit which had already been established. In the operative portion of the judgment, this Court observed that the 9th respondent shall make necessary adjustments in his building to maintain the distance which is prescribed by the Pollution Control Board at Ext. P4. It is pointed out that Ext. P4 is dated 20-7-2011. Even prior to the said date, by Ext. R9(h)

dated 28-12-2009, the review petitioner was given the consent to establish the Unit.

3. According to the review petitioner, the building was established immediately after the consent to establish the Unit has been granted. As per the rules then prevailing, the set back to be provided is only 3 metres, whereas, as per Ext. P4, it is 10 metres. Annexure - B is the Circular dated 9-8-2004 issued by the Pollution Control Board with regard to the distance to be maintained. This fact is supported by the learned counsel appearing for the Pollution Control Board.

4. Materials on record indicates that the review petitioner started construction of the building on the basis of the consent to establish the Unit issued as early as on 28-12-2009, and therefore, the set back to be provided can only be as on the date of Annexure -B.

5. Though the learned counsel for the respondent/Writ

Petitioner submits that the construction activities were started subsequent to Ext. P4 coming into force, on the basis of the facts available on record, I do not think that such a contention is tenable. Under such circumstances, I am of the view that appropriate clarification is to be made to the judgment dated 21-3-2014. It is, therefore, made clear that it shall be open for the Pollution Control Board to rely upon Annexure B and provide appropriate consent to operate the Unit to the petitioner, if he complies with the other requirements.

With the above clarification, this Review Petition is closed.

Sd/-A.M. SHAFFIQUE
(Judge)

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P.S. to Judge