

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC  
&  
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

**TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936**

**WA.No. 1812 of 2012 () IN WP(C).35522/2010**  
-----

**AGAINST THE ORDER/JUDGMENT IN WP(C) 35522/2010 of HIGH COURT OF KERALA  
DATED 18/6/12**

**APPELLANTS/RESPONDENTS 1 & 2 IN WP:**  
-----

- 1. STATE OF KERALA  
SECRETARY, DEPARTMENT OF AGRICULTURE, SECRETARIAT  
THIRUVANANTHAPURAM.**
- 2. REVENUE DIVISIONAL OFFICER,  
MANANTHAWADI, WAYANAD DISTRICT.**
- 3. ASSISTANT WILDLIFE WARDEN,  
THOLPETTY, WAYANAD DISTRICT.**

**BY ADV. SR GOVERNMENT PLEADER SMT.M.T.SHEEBA**

**RESPONDENT(S)/PETITIONER IN WPC:**  
-----

**SIRIL VARGHESE  
S/O.VARKEY PAREKKATTIL HOUSE, KANIYARAM  
MANANTHAVADY P.O., WAYANAD, PIN-670645.**

**BY SRI.V.M.KRISHNAKUMAR**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 24-02-2015, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**ANTONY DOMINIC & ALEXANDER THOMAS, JJ.**  
=====

**Writ Appeal No. 1812 of 2012**  
=====

**Dated this the 24<sup>th</sup> day of February, 2015**

**J U D G M E N T**

Antony Dominic, J.

The respondents in WP(C) No.35522/10 are the appellants. By the judgment under appeal, the learned single Judge set aside Ext.P1 order issued by the appellants permitting conversion of the land mentioned therein under the Kerala Land Utilization Order to the extent a condition that the proposed petroleum outlet should be shifted from the property was imposed.

2. We heard the learned Government Pleader appearing for the appellants and the learned counsel appearing for the respondent/petitioner.

3. By Ext.P1 order, conversion of 50 cents of coffee plantation was permitted for the construction of the resort and restaurant but at the same time insisting that the petroleum outlet should be shifted. In Ext.P10, the Government declined to modify that condition on the ground that the establishment of the petroleum outlet would affect the environment and the free movement of wild animals. Before this Court, the condition imposed in Ext.P1 requiring

the shifting of the petroleum outlet was sought to be substantiated by the learned Government Pleader by pointing out not only its impact on the free movement of wild animals but also the environmental impact the petroleum outlet can have.

4. However, as rightly pointed out by the learned single Judge, imposition of the condition such as the one imposed in Ext.P1 is totally outside the scope of the Kerala Land Utilization Order issued under the provisions of the Essential Commodities Act.

5. In so far as the environmental pollution that is sought to be projected is concerned, it is the case of the respondent that he had already obtained a consent from the Pollution Control Board under the Air (Prevention & Control of Pollution) Act and Water (Prevention & Control of Pollution) Act, which incorporates necessary conditions for abatement of the possible pollution emanating from the outlet in question. Learned Government Pleader was unable to show us any provision of law prohibiting the establishment of the petroleum outlet in the proximity of a Wild Life Sanctuary. This, therefore, means that there is no law which prevented the owner of the land from establishing a

petroleum outlet and that in the instant case, the respondent had also obtained statutory clearance from the Kerala State Pollution Control Board. We also cannot ignore the fact that there are a couple of outlets in the close proximity to the location in question and that those petroleum outlets are functioning without any complaint either from the appellants or anybody else. If that be so, the objection now raised against the establishment of the petroleum outlet by the respondent herein, defies logic.

In such circumstances, we do not find any reason to interfere with the judgment under appeal. Appeal fails and is dismissed.

Sd/-  
**ANTONY DOMINIC  
JUDGE**

Sd/-  
**ALEXANDER THOMAS  
JUDGE**

Rp

//True Copy//

PA to Judge