

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WA.No.1050 of 2011 IN WP(C).27884/2010

AGAINST THE JUDGMENT IN WP(C) 27884/2010 of HIGH COURT OF KERALA
DATED 24-05-2011

APPELLANT/4TH RESPONDENT IN WP:

THE DIVISIONAL FOREST OFFICER,
THRISSUR.

BY SPECIAL GOVERNMENT PLEADER SMT.M.T.SHEEBA

RESPONDENTS/PETITIONER & RESPONDENTS 1 TO 3 IN WP:

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1. M/S UNITED GRANITES, PAZHAYANNUR,
THRISSUR, REPRESENTED BY ITS MANAGING PARTNER
V.C.ELIAS, VARAPPATHUKUZHIL HOUSE
KILLIMANGALAM P.O., THRISSUR-680591.
 2. PAZHAYANNUR GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, P.O.PAZHAYANNUR
THRISSUR-680587.
 3. SECRETARY, PAZHAYANNUR GRAMA PANCHAYAT,
-DO- -DO-, PIN 680587.
 4. PRESIDENT, PAZHAYANNUR GRAMA PANCHAYAT,
PIN 680587.

R1 BY ADV. SRI.JAMES ABRAHAM (VILAYAKATTU)
R2-4 BY ADV. SRI.SANTHEEP ANKARATH
R2-4 BY ADV. SRI.SUMODH MADHAVAN NAIR
R2-4 BY ADV.SRI.P.JAYARAM
R2-4 BY AVD.SRI.K.C.KIRAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 07-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 7th day of January, 2015.

J U D G M E N T

Antony Dominic, J.

This writ appeal is filed by the 4th respondent in W.P.(C). No.27884/2010. The 1st respondent herein filed the writ petition seeking to challenge Ext.P17, a communication issued by the 3rd respondent herein, informing that a licence for a crusher unit applied for can be granted only if the 1st respondent produces no objections from the neighbouring land owners including the forest officials. By the judgment under appeal, the learned Single Judge accepted the contention of the 1st respondent that the consent mentioned in Ext.P17 is not a requirement specified in Sec. 233 of the Kerala Panchayath Raj Act or Rule 12 of the Kerala Panchayath Raj (Licensing of Dangerous and Offensive Trades and Factories) Rules, 1996. On that basis the learned Single Judge quashed the impugned order and directed consideration of Ext.P3 application filed by the 1st respondent for licence. It is this judgment which is under challenge before us.

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2. We heard the Government Pleader appearing for the appellant and counsel appearing for the 1st respondent and counsel appearing for the other respondents also.

3. In our view the only issue that arises for consideration is whether Ext.P17 was legally tenable or not. When the 1st respondent applied for a licence for starting a crusher unit along with Exts.P4 to P14, the Panchayath finally responded to the 1st respondent by issuing Ext.P17 and informed him that he should produce No Objection Certificates from the neighbouring property owners, which include the appellant. Admittedly, the neighbouring property includes the forest land as well.

4. In this background the question to be considered is whether production of such No Objection Certificates is a requirement of Sec. 233 of the Kerala Panchayath Raj Act or Rule 12 of the Kerala Panchayath Raj (Licensing of Dangerous and Offensive Trades and Factories) Rules. Perusal of Sec. 233 of the Act and Rule 12 of the Rules show that the legislature has not incorporated any such requirement. This precisely is the reason which persuaded the learned Single Judge to interfere with Ext.P17.

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5. Having regard to the language used by the legislature and the aforesaid statutory provisions, the conclusion of the learned Single Judge is absolutely unassailable and does not warrant any interference.

6. However, learned Government Pleader contented that the attempt of the petitioner is to initially start a crusher unit and to develop it as a quarry as well. It is stated that if such a developmental activity takes place that will affect the environment including the wildlife in the neighbouring forest. In our view that is only a future possibility and if such a possibility materialises, it is always open to the statutory authorities to take appropriate action as and when that stage is reached. Therefore, the apprehension of a future development cannot be a reason to uphold Ext.P17.

We see no reason to interfere with the judgment impugned. Appeal fails and accordingly, dismissed.

**ANTONY DOMINIC,
Judge.**

**ALEXANDER THOMAS,
Judge.**