

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WA.No. 864 of 2015 IN WP(C).3928/2015

AGAINST THE ORDER IN WP(C) 3928/2015 DATED 09-04-2015
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APPELLANTS/RESPONDENTS 4-6 :

1. SHAMMY THILAKAN, AGED 49 YEARS,
S/O.SURENDRANATH THILAKAN, S/O.SURENDRANATH THILAKAN
PALAPURAM, JNRA-3, OPPOSITE S.N.VANITHA COLLEGE
KOLLAM-691001.
2. T.N.RAVINDRAN
'SHADALE', JNRA-3, OPPOSITE S.N.VANITHA COLLEGE
KOLLAM-691001.
3. NAZARATH MANUEL
'ROSEDALE', JNRA-1, OPPOSITE S.N VANITHA COLLEGE
KOLLAM-691001.

BY ADVS.SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR
SRI.K.JAGADEESH
SRI.RAAJESH S.SUBRAHMANIAN

RESPONDENTS/PETITIONER AND RESPONDENTS 1-3 AND 7 AND 8 :

1. S.SREEKUMAR, AGED 49 YEARS
S/O.A.SREEDHARAN, MANI'S FAMILY MART, OPP.S.N.COLLEGE
KOLLAM-691001.
2. KERALA STATE POLLUTION CONTROL BOARD
REPRESENTED BY ITS CHAIRMAN, HEAD OFFICE, PLAMOOD
PATTOM, THIRUVANANTHAPURAM-695004.
3. ENVIRONMENT ENGINEER
KERALA STATE POLLUTION CONTROL BOARD
DISTRICT OFFICE, KOLLAM-691008.
4. AIR AND WATER APPELLATE AUTHORITY
POOJAPPURA, THIRUVANANTHAPURAM-695012.

5. STATE OF KERALA
REPRESENTED BY ITS SECRETARY OF THE
LOCAL SELF GOVERNMENT DEPARTMENT
THIRUVANANTHAPURAM.

6. CHIEF TOWN PLANNER
THIRUVANANTHAPURAM.

R1 BY SRI.M.R.ANISON
R2 & R3 BY SRI.M.R.ARUNKUMAR, SC, POLLUTION CONTROL BOARD
R5 & R6 BY SPL.GOVERNMENT PLEADER, SMT. GIRIJA GOPAL.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 864 OF 2015

Dated this the 22nd day of May, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard learned counsel for the appellants as well as learned counsel appearing for the respondent/writ petitioner.

2. This Writ Appeal has been filed against the interim order dated 09.04.2015 passed by learned Single Judge in W.P.(C) No. 3928 of 2015. By the interim order the learned Single Judge has directed the following in paragraph 3 :

“For the time being, the petitioner shall ensure that sound level of the unit is being maintained strictly treating the area as a residential zone. The Pollution Control Board is directed to take random measurements both during day time and night hours and file a report before this Court.”

3. Looking to the nature of dispute and urgency in the matter, learned Single Judge has fixed 20.05.2015 as the hearing date, i.e. the first day of re-opening of the Court after summer vacation.

4. The issue sought to be raised are issues of facts which need to be considered by learned Single Judge. We are of the view that it is not appropriate to entertain the Writ

Appeal. The appellant shall appear before learned Single Judge and make submissions which are sought to be raised in the Writ Appeal. It is submitted that counter affidavit has already been filed. It is for the learned Single Judge to consider as to whether the writ petition itself may be finally decided.

The Writ Appeal is disposed of accordingly.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**