

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 464 of 2014 (G)

PETITIONER(S) :

**SOMAVALLY, AGED 69 YEARS,
D/O. GAURI, SREENARAYANA MANDIRAM, CHUNKATHARA,
PUTHUR P.O., KOLLAM DISTRICT.**

**BY ADVS.SRI.K.S.MANU (PUNUKKONNOOR)
SRI.K.B.PRADEEP**

RESPONDENT(S) :

- 1. DIVISIONAL FOREST OFFICER,
DIVISIONAL FOREST OFFICE, PUNALUR, KOLLAM-691 001.**
- 2. RANGE FOREST OFFICER,
RANGE FOREST OFFICE, PATHANAPURAM, KOLLAM-691 001.**
- 3. THE DISTRICT COLLECTOR, KOLLAM,
COLLECTORATE, KOLLAM-691 001.**

*** ADDITIONAL R4 IMPLEADED**

- 4. SAJEEVAN.J, S/O.JANARDHANAN,
RESIDING AT OMKARAM HOUSE, CHUNGATHARA MURI,
PUTHOOR VILLAGE, KOTARAKKARA TALUK,
PUTHOOR P.O, KOLLAM DISTRICT, PIN : 691 507.**

*** ADDITIONAL R4 IS IMPLEADED AS PER ORDER DATED 24/06/2014 IN
I.A.NO.1585 OF 2014.**

**R1 TO R3 BY SPL.GOV.T.PLEADER SRI.M.P.MADHAVANKUTTY, (FOREST)
GOVERNMENT PLEADER SRI.RAFEEQ V.K
ADDL.R4 BY ADVS. SRI.K.RAMACHANDRAN
SMT.M.C.BINDUMOL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-03-2015, ALONG WITH W.P.(C).NO.30898 OF 2013, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE LICENSE ISSUED BY THE PANCHAYAT.

EXHIBIT P2: TRUE COPY OF THE WILL.

EXHIBIT P3: TRUE COPY OF THE PLAINT IN O.S.NO.37/10.

**EXHIBIT P4: TRUE COPY OF THE ORDER OF MUNSIFF COURT
KOTTARAKKARA.**

EXHIBIT P5: TRUE COPY OF THE COUNTER CLAIM IN O.S.NO.37/10.

EXHIBIT P6: TRUE COPY OF THE ORDER DATED 26/06/2010 IN I.A.NO.1632/2010

**EXHIBIT P7: TRUE COPY OF THE NOTICE DATED 18/8/2011 ISSUED BY
THE PANCHAYAT.**

EXHIBIT P8: TRUE COPY OF THE LETTER DATED 17/10/2011.

EXHIBIT P9: TRUE COPY OF THE LETTER DATED 20/07/2012.

**EXHIBIT P10: TRUE COPY OF THE PLAINT AND ORDER DATED 26/07/2012 IN
O.S.NO.425/12.**

**EXHIBIT P11: COPY OF THE JUDGMENT IN W.P(C).NO.18006/12
DATED 16/01/2013**

EXHIBIT P12: COPY OF THE ORDER IN I.A.NO.2203/13 IN O.S.NO.425/12.

**EXHIBIT P13: TRUE COPY OF THE POSSESSION CERTIFICATE AND TAX RECEIPT
DATED 03/07/2013.**

**EXHIBIT P14: TRUE COPY OF THE LICENSE OF SAW MILL DATED 17/10/2013
ISSUED BY THE FOREST DEPARTMENT.**

**EXHIBIT P15: TRUE COPY OF THE INTEGRATED CONSENT TO OPERATE ISSUED
FROM KPC BOARD DATED 26/10/2013.**

**EXHIBIT P16: TRUE COPY OF THE COMPLAINT FILED BY THE 3RD RESPONDENT
DATED NIL.**

**EXHIBIT P17: TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT
DATED 08/11/2013.**

**EXHIBIT P18: TRUE COPY OF THE INTERIM ORDER DATED 13/12/2013 IN
W.P.(C).NO.30898/13**

WP(C).No. 464 of 2014 (G)

**EXHIBIT P19: TRUE COPY OF THE REQUEST DATED 18/12/2013 FILED BY
THE PETITIONER BEFORE 1ST RESPONDENT.**

**EXHIBIT P20: TRUE COPY OF THE REQUEST DATED 21/12/2013 FILED BY
THE PETITIONER BEFORE THE 1ST RESPONDENT.**

**EXHIBIT P21: TRUE COPY OF THE CANCELLATION ORDER DATED 29/11/2013
FILED PASSED BY 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J

WPC Nos.30898 of 2013
& 464 of 2014

Dated this the 23rd day of March, 2015

JUDGMENT

These writ petitions relate to the grant of a license to run a saw mill by the petitioner.

2. The petitioner's husband late Sivaraman was running the saw mill in the name and style of Viswamohini Saw Mill from 1956 onwards. The petitioner's husband died on 25.4.2002 and the saw mill was obtained by the petitioner as per the Will executed by the deceased Sivaraman. Though the petitioner applied for renewal of license before the Panchayat, they declined it for the reason that the saw mill has no integrated consent to operate from PCB and the forest department and issued stop memo by both authorities and the same were challenged before this Court. This Court, by Ext.P11 judgment, disposed of the writ petitions permitting the

petitioner to construct a brick wall to prevent the sound and dust pollution within the petitioner's property and without encroaching the disputed extent which forms the subject matter of the pending civil suit. This Court also made clear that the same would be subject to the result of the verdict to be passed by the civil court. It is also observed that subject to the satisfaction of the requirements in Ext.P13 (Ext.P8 herein), it is open to the petitioner to approach the PC Board as well as the concerned Local Authority for re-inspection/further steps. The authorities gave license Exts.P13 to P15. While the Panchayat was processing the application for license, the third respondent approached the respondents and obtained a stay bypassing the judgment of this Court and the Munsiff Court, Kottarakkara, i.e.Exts.P11 and P12, under the guise of challenging Ext.P13.

3. The third respondent has no right to challenge the same or to question the relationship of the petitioner and late Sivaraman. It is with these allegations, the petitioner

has filed WPC No.30898/2013.

4. In WPC No.464/2014, the petitioner alleges that the first respondent has cancelled Ext.P15 license on the basis of the letter issued by the third respondent without any specific reason. It is with this background, he has filed the second writ petition.

5. Arguments have been heard.

6. The main grievance of the petitioner is regarding Ext.P17 produced in WPC No.30898/2013. Further proceedings were stayed by the District Collector as per Ext.P17 on account of the pendency of O.S.No.425/2012. According to the petitioner, this is against the clear direction given in Ext.P11.

7. The learned counsel for the respondent, per contra, would submit that though the Environmental Pollution Control Board has granted permission to the petitioner, the party respondent has taken the matter in appeal before the concerned Appellate Authority and the same is pending. It was also pointed out that the period

of validity of the permission granted to the petitioner is over. Therefore, this Court is of the view that the writ petitions can be disposed of making it clear that the grant of license to run the saw mill shall be subject to the final result of O.S.No.425/2012 pending before the Sub Court, Kottarakkara and the appeal, if any, filed by the party respondent before the appellate forum against the decision of the Kerala State Pollution Control Board.

Therefore, these writ petitions are disposed of making it clear that the grant of license to run the saw mill shall be subject to the final result of O.S.No.425/2012 now pending consideration before the Sub Court, Kottarakkara and the appeal, if any, filed before the appellate forum against the decision of the Kerala State Pollution Control Board. The first respondent shall pass formal orders to this effect within a period of one month from the date of receipt of a copy of this judgment.

If the term of license is over, the renewal of the same shall be subject to the final result of the aforesaid

original suit and the decision of the appellate forum and also after affording the petitioner, party respondent and affected parties, if any, an opportunity of being heard.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

CSS/

true copy

P.S.TO JUDGE