

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(C).No. 391 of 2015 (Y)

PETITIONER:

**N.KUTTAN PILLAI,
AGED 77 YEARS, S/O. NEELAKANDAN PILLAI,
HARI BHAVANAM VEEDU, THAMALLAKKAL NORTH,
THAMALLAKKAL P.O., HARIPPAD, ALAPPUZHA - 690 549.**

BY ADV. SRI.M.R.ARUNKUMAR

RESPONDENT(S):

- 1. THE DIVISIONAL FOREST OFFICER,
DIVISIONAL FOREST OFFICE, RAANNI,
PATHANAMTHITTA - 689 672.**
- 2. THE CHERUTHANA GRAMA PANCHAYATH,
REPRESENTED BY SECRETARY,
OFFICE OF THE CHERUTHANA GRAMA PANCHAYATH,
CHERUTHANA P.O., ALAPPUZHA - 690 517.**
- 3. THE SECRETARY,
DEPARTMENT OF FOREST AND WILD LIFE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**

R1 & R3 BY SPECIAL GOVT. PLEADER SRI.M.A.THOMAS KUTTY (FOREST)

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: COPY OF THE CERTIFICATE ISSUED BY THE DEPARTMENT OF INDUSTRIES, DISTRICT INDUSTRIES CENTRE, ALAPPUZHA DATED 14/8/1986.**
- P2: COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT EVIDENCING THE PAYMENT OF LICENSE FEE DATED 18/7/1986.**
- P3: COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT EVIDENCING THE PAYMENT OF PROFESSIONAL TAX DATED 18/7/1986.**
- P4: COPY OF THE RECEIPT OF PAYMENT OF BUILDING TAX TO THE 2ND RESPONDENT DATED 3/11/2000.**
- P5: COPY OF THE RECEIPT EVIDENCING THE PAYMENT OF LICENSE FEE UNDER THE KERALA PANCHAYATH RAJ (ISSUE OF LICENSE TO DANGEROUS AND OFFENCE TRADES AND FACTORIES) RULES 1986 FOR THE YEAR 2006-2007 ISSUED BY THE 2ND RESPONDENT DATED 19/5/2006.**
- P6: COPY OF THE RECEIPT EVIDENCING THE PAYMENT OF LICENSE FEE FOR THE YEAR 2007 - 2008 ISSUED BY THE 2ND RESPONDENT DATED 23/1/2008.**
- P7: COPY OF THE LICENSE ISSUED BY THE 2ND RESPONDENT DATED 4/3/2008.**
- P8: COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT FOR THE LICENCE FEE FOR THE RUNNING OF 25 HP MOTOR DATED 23/1/2008.**
- P9: COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 19/3/2011.**
- P10: COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 3/1/2013 FOR THE BUILDING NO.CP IV/253 A AND CPIV/253 B.**
- P11: COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 3/1/2013 FOR THE BUILDING NO.CP IV/253.**
- P12: COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 4/3/2014 FOR THE BUILDING NO.IV/253.**
- P13: COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 4/3/2014 FOR THE BUILDING NO.IV/253 A.**
- P14: COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 4/3/2014 FOR THE BUILDING NO.IV/253 B.**
- P15: COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE 2ND RESPONDENT AS RECEIPT NO.4505428 DATED 30/9/2014.**
- P16: COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE 2ND RESPONDENT AS RECEIPT NO.4505427 DATED 30/9/2014.**

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- P17: COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE 2ND RESPONDENT AS RECEIPT NO.1630084 DATED 30/9/2014.
- P18: COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE 2ND RESPONDENT AS RECEIPT NO.1630085 DATED 30/9/2014.
- P19: COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE 2ND RESPONDENT DATED 3/11/2000.
- P20: COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DATED 6/7/2013.
- P21: COPY OF THE CERTIFICATE ISSUED BY THE 2ND RESPONDENT DATED 6/12/2013.
- P22: COPY OF THE CERTIFICATE ISSUED BY THE PRESIDENT OF THE 2ND RESPONDENT PANCHAYATH DATED 20/12/2013.
- P23: COPY OF THE SALE DEED NO.2309/2000 OF HARIPPAD SUB REGISTRAR'S OFFICE EXECUTED IN FAVOUR OF THE PETITIONER DATED 6/7/2000.
- P24: COPY OF THE SETTLEMENT DEED NO.1499 OF 2010 OF HARIPPAD SUB REGISTRAR'S OFFICE DATED 26/4/2010 EXECUTED BY THE PETITIONER.
- P25: COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE SON OF THE PETITIONER TO THE PETITIONER DATED 10/12/2013.
- P26: COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE VILLAGE OFFICER IN FAVOUR OF THE PETITIONER DURING 2000-2001 DATED 22/5/2000.
- P27: COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE VILLAGE OFFICER IN FAVOUR OF THE PETITIONER DURING 2001-2002 DATED 7/11/2001.
- P28: COPY OF THE PROPERTY TAX RECEIPT ISSUED BY THE VILLAGE OFFICER IN FAVOUR OF AJITH, THE SON OF THE PETITIONER DURING 2013-2014 DATED 9/12/2013.
- P29: COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, CHERUTHANA DATED 8/11/2011.
- P30: COPY OF THE ALLOCATION OF POWER OBTAINING 17 H.P TO THE PETITIONER'S SAWMILL BY THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL MAJOR SECTION, HARIPPAD DATED 18/2/2002.
- P31: COPY OF THE ELECTRICITY BILL DATED 17/11/1998.
- P32: COPY OF THE ELECTRICITY BILL DATED 10/5/2000.
- P33: COPY OF THE ALLOCATION OF POWER BY THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL SUB DIVISION, HARIPPAD DATED 8/4/2005.
- P34: COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT EVIDENCING THE RECEIPT OF APPLICATION FOR RENEWAL OF LICENCE DATED 17/12/2011.

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- P35: COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 22/12/2012.
- P36: COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 23/11/2013.
- P37: COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE DEPUTY DIRECTOR OF DISTRICT PANCHAYATH, ALAPPUZHA DATED 9/7/2013.
- P38: COPY OF THE LETTER ISSUED BY THE DEPUTY DIRECTOR OF PANCHAYATHS, ALAPPUZHA TO THE PETITIONER DATED 19/11/2013.
- P39: COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 5/11/2013.
- P40: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 15/11/2013.
- P41: COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 12/12/2013.
- P42: COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 28/4/2014.
- P43: COPY OF THE REPRESENTATION FILED BEFORE THE 1ST RESPONDENT BY THE PETITIONER DATED 10/5/2014.
- P44: COPY OF THE APPLICATION FOR THE ISSUANCE OF LICENCE TO THE 2ND RESPONDENT BY THE PETITIONER DATED 3/11/2014.
- P45: COPY OF THE RECEIPT EVIDENCING THE ACCEPTANCE OF EXHIBIT P43 APPLICATION ISSUED BY THE 2ND RESPONDENT DATED 4/11/2014.
- P46: COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT, REJECTING THE APPLICATION DATED 9/12/2014.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON J.

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Dated, this the 12th day of January, 2015

JUDGMENT

The petitioner is stated as aggrieved of Ext. P42 order passed by the first respondent. The case of the petitioner is that he started a saw mill in the year 1996 and the licence was renewed till 2008. In the year 2011, the petitioner approached the second respondent by filing application for renewal. In connection with the same, the petitioner had obtained no objection certificate from the first respondent, after satisfying various requirements. The petitioner was informed as per Ext. P42 to confine the requirement in the manner as specified and also report compliance with regard to dismantling of the machinery above 15 HP, so as to have the matter considered. The petitioner submitted Ext. P43 seeking to reconsider Ext. P42, pointing out that the machinery of 32.5 HP was installed much earlier i.e. before the cut off date of 30.10.2002 and that the petitioner was ready to substantiate the position in this regard, with reference to the relevant records maintained including by the Local

Authority. The prayer is only to cause Ext. P43 to be considered within a reasonable time.

2. Heard the learned special Government Pleader as well.

3. Considering the limited extent of relief sought for, this Court does not find it necessary to issue notice to the second respondent for the time being. The writ petition is disposed of, directing the first respondent to consider and pass appropriate orders on Ext. P43, after giving an opportunity of hearing to the petitioner and the second respondent, at the earliest, at any rate, within six weeks from the date of receipt of a copy of this judgment. Implementation of Ext. P46 shall be kept in abeyance till such time.

Petitioner shall produce a copy of this judgment along with a copy of the writ petition before the first respondent for further steps.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

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