

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 905 of 2015 (K)

PETITIONER:

SYAMALADEVI N.G., AGED 57,
W/O.R SADASIVAN PILLAI,
THEKKEKKARA PUTHEN VEEDU,
NEELESWARAM P.O,
NEDUVATHOOR, KOTTARAKARA,
KOLLAM 691 505.

BY ADVS.SRI.PRAVEEN K. JOY
SRI.T.A.JOY

RESPONDENTS:

1. NEDUVATHUR GRAMA PANCHAYATH
NEELESWARAM P.O.,
KOLLAM DISTRICT 691 505
REP BY ITS SECRETRAY.
2. THE SECRETARY,
NEDUVATHUR GRAMA PANCHAYATH,
NEELESWARAM P.O.,
KOLLAM DISTRICT 691 505.
3. PRINCIPAL AGRICULTURAL OFFICER,
KOLLAM 691 505.
4. GOPINADHAN NAIR
S/O.RAMAKRISHNA PILLAI, SAROVARAM,
NEELESWARAM P.O NEDUVATHOOR,
KOTTARAKARA, KOLLAM 691 505.

R4 BY ADV. SRI.ALAN PAPALI
R4 BY ADV. SRI.NISHIL.P.S.
R4 BY ADV. SRI.J.VIMAL
R3 BY GOVT. PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 905 of 2015 (K)

PETITIONER'S EXHIBITS:

EXT.P1 THE TRUE PHTOOCOPY OF THE CERTIFICATE OF REGISTRATION DATED 11-10-2012 OF THE 3RD RESPONDENT

EXT.P2 THE TRUE PHOTOCOPY OF THE LICENCE DATED 24-11-2014 OF THE 1ST RESPONDENT TOGETHER WITH TRANSLATION

EXT.P3 THE TRUE PHTOOCOPY OF THE RECEIPT DATED 22-12-2014 BEFORE THE 1ST RESPONDENT

EXT.P4 THE TRUE PHTOOCOPY OF THE RECEIPT DATED 26-11-2014 OF THE 1ST RESPONDENT

EXT.P5 THE TRUE PHTOOCOPY OF THE LICENSE DATED 27-4-2011 OF THE 1ST RESPONDENT

EXT.P6 THE TRUE PHTOOCOPY OF THE ORDER DATED 8-1-15 OF THE 5TH RESPONDENT ALONG WITH TRUE TRANSLATION

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.905 of 2015 K

Dated this the 11th day of March, 2015

JUDGMENT

The challenge laid in this writ petition is against Exhibit P6 order issued by the respondent Grama Panchayat directing the petitioner to show cause why the trade licence issued to her should not be cancelled on the ground that she has been conducting the retail fertilizer business from an unauthorised building.

2. The learned counsel for the petitioner has submitted that the petitioner has licence valid up to 31st March, 2015, and that it is required to be renewed by the respondent Grama Panchayat. In so far as Exhibit P6 order is concerned, the singular contention of the learned counsel for the petitioner is that it was issued based on a complaint made by the fourth respondent that the respondent Grama

Panchayat has not followed the due process while issuing the said order.

3. The learned counsel for the fourth respondent, at whose instance Exhibit P6 order was issued, has strenuously contended that the petitioner constructed a second building without any valid building permit. According to him, though Exhibit P2 trade licence was issued to the petitioner to carry on the business in a particular building, in violation of the said licence, she has started storing the stocks in the unauthorised building, thereby causing immense hardship to the fourth respondent and other members of the locality.

4. The learned counsel for the respondent Grama Panchayat has submitted that in so far as the unauthorised construction is concerned, the petitioner has already submitted an application for its regularisation. Concerning the cancellation of licence, as has been sounded in Exhibit

P6, he would submit that the very licence is to come to an end by 31st March, 2015.

5. It is evident that Exhibit P6 is an appealable order. At the same time, it is the contention of the learned counsel for the petitioner that Exhibit P6 order was issued without adhering to the principles of natural justice. Be that as it may, unless the petitioner's unauthorised construction is regularised, she cannot be permitted to carry on any business in the said building, more particularly when trade licence was issued in Exhibit P2 authorising the petitioner to carry on the business in another building.

6. In the facts and circumstances, this Court directs the respondent Grama Panchayat to ensure that the petitioner neither stocks nor carries on any business from the said unauthorised construction, which is yet to be regularised by it. On inspection, if it is found that the petitioner has been still stocking the material or carrying on

the business from the said unauthorised building, the respondent Grama Panchayat shall take appropriate action in that regard. In so far as the renewal of licence and regularisation of unauthorised construction are concerned, it is entirely for the respondent Grama Panchayat to take appropriate decision in that regard. This Court expressly declines to make any observation therefor.

With the above observation, the writ petition stands disposed of. No order as to costs.

Dama Seshadri Naidu, Judge

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