

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 4116 of 2013 (L)

PETITIONER :

**V.K.MOHAMMED YAHYA
S/O.KUNJU MUHAMMED MAULAVI, VELIKKAKATH HOUSE,
KOONTHANI, THUVANIMALA P.O., SULTHANBETHERY
WAYANAD DISTRICT (PROPRIETOR M/S.CRESCENT PLYWOODS
KOONTHANI, SULTHAN BATHERY)**

**BY ADVS.SRI.SIRAJ KAROLY
SMT.A.SEENA
SRI.M.C.JOHN**

RESPONDENTS :

- 1. THE FOREST RANGE OFFICER, MEPPADI
RANGE , MEPPADI, WAYANAD DISTRICT 671014.**
- 2. THE DIVISIONAL FOREST OFFICER
SOUTH WAYANAD DIVISION, KALPETTA
WAYANAD DISTRICT 671 014.**
- 3. THE CHIEF CONSERVATOR OF FORESTS
(SPECIAL AFORESTATION AND NODAL OFFICER)
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM 695 001.**
- 4. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF FOREST AND WILD LIFE,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- 5. THE SECRETARY
NENMENI GRAMA PANCHAYATH, NENMENI PO,
SULTHAN BATHERY, WAYANAD DISTRICT 671 014.**
- 6. NENMENI GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY
NENMENI GRAMA PANCHAYATH OFFICE, NENMENI PO
SULTHAN BATHERY, WAYANAD DISTRICT 671 014.**

BY SPL. GOVERNMENT PLEADER SRI. THOMAS KUTTY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1: CERTIFICATE OF REGISTRATION DATED 13/1/1988
- EXHIBIT P2: CERTIFICATE ISSUED FROM KERALA FINANCIAL CORPORATION
CLOSING THE LOAN TRANSACTION OF THE INDUSTRIAL UNIT OF THE
PETITIONER
- EXHIBIT P3: TRUE COPY OF ORDER PERMITTING THE PAYMENT OF THE
ELECTRICAL BILL DUE FROM THE FORMER OWNER OF THE
PETITIONER'S INDUSTRIAL UNIT.
- EXHIBIT P4: TRUE COPY OF THE INTERIM ORDER IN OP 25411/98 OF THIS HON'BLE
COURT.
- EXHIBIT P5: TRUE COPY OF THE CERTIFICATE DATED 10/7/2009 ISSUED BY THE
5TH RESPONDENT
- EXHIBIT P6: TRUE COPY OF THE JUDGMENT IN OP NO.24252/98 OF THIS HON'BLE
COURT FILED BY THE SIMILARLY SITUATED PARTIES
- EXHIBIT P7: TRUE COPY OF THE SALE DEED
- EXHIBIT P7(A): TRUE COPY OF THE AGREEMENT DATED 29/2/2009 TRANSFERRING
THE NAME OF THE FIRM AND SALE OF THE MACHINERY
- EXHIBIT P8: TRUE COPY OF THE CERTIFICATE OF THE REGISTRATION BY THE
SALE TAX DEPARTMENT UNDER THE VAT RULES ISSUED IN FAVOUR
OF THE PETITIONER.
- EXHIBIT P9: TRUE COPY OF THE VERIFICATION REPORT ON APPLICATION FOR
NOC SUBMITTED BY THE RANGE OFFICER
- EXHIBIT P10: TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE 3RD
RESPONDENT DATED 29/5/2010
- EXHIBIT P11: TRUE COPY OF REPLY DATED 17/12/2011
- EXHIBIT P12: TRUE COPY OF THE LICENCE ISSUED BY THE 5TH RESPONDENT
DATED 1/6/2011
- EXHIBIT P13: TRUE COPY OF THE REQUEST MADE BY THE PETITIONER TO THE
MINISTER FOR FOREST & WILD LIFE DATED 29/5/2012
- EXHIBIT P14: TRUE COPY OF THE REPLY ISSUED 2ND RESPONDENT UNDER THE
RIGHT TO INFORMATION ACT
- EXHIBIT P14(A): TRUE COPY OF THE APPLICATION FOR INFORMATION 20

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EXHIBIT P15: A TRUE COPY OF THE ORDER DATED 28/12/2012 ISSUED BY THE 2ND
RESPONDENT

EXHIBIT P16: COPY OF THE LETTER DT 15/7/2014.

RESPONDENTS' EXHIBITS :

EXT.R2(A): COPY OF THE LETTER ISSUED BY THE NENMENI GRAMA PANCHAYAT
AS PER ORDER NO. A5-4151/09 DT 13/5/2009.

//TRUE COPY//

P.S. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 4116 of 2013

Dated this the 1st day of October, 2015

J U D G M E N T

Petitioner is the proprietor of M/s.Crescent Plywoods, a small scale industrial unit. According to the petitioner, this was established in 1988. Originally it was known as St.Mary's Plywoods and due to transfer of ownership, it was known in different names. The petitioner became the owner in the year 2008 as per Ext.P7. Petitioner applied for renewal of licence.

2. It is submitted by the learned Special Government Pleader that as per the Kerala Forest (Regulation of Sawmills and Other Woodbased Industrial Units) Rules, 2012, no wood based industry shall be established within the distance of 5 kms. from the boundary of the forest. Therefore, the petitioner is not entitled for renewal of licence.

3. Petitioner points out original petitions filed by one Jyothi

Kumar, the previous owner, one is O.P.No.25411 of 1998. This was filed challenging the order passed by the Forest Range Officer, to stop operation of the unit within five kms. from the forest area.

4. Now, as matter stands, the petitioner is operating based on the interim orders passed by this Court.

5. The question is whether the petitioner is transferee from the original operator. This can be borne out from the relevant records of the Department. Therefore, this Court is of the view that the respondent shall verify whether the unit is in existence prior to the Government Order. The petitioner also relies on the verification report produced as Ext.P9. Therefore, if it is found that the unit is in existence prior to 2002, the petitioner shall be given necessary relief in accordance with the relevant provisions and the Government Orders. Needful shall be done within one month from the date of receipt of a copy of this judgment. The interim order will continue till a decision is taken in the matter by the competent authority.

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This writ petition is disposed of as above.

A.MUHAMED MUSTAQUE,
Judge

MBS/

