

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No.1534 of 2015 (N)

PETITIONER:

**S.RAMACHANDRAN,THEKKANATTU HOUSE,
KIDANGOOR (P.O.),KOTTAYAM DISTRICT,
PIN-686 572.**

BY ADV.SRI.GEORGEKUTTY MATHEW

RESPONDENTS:

- 1. KIDANGOOR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
KIDANGOOR (P.O.),KOTTAYAM DISTRICT,PIN-686 572.**
- 2. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE,NAGAMPADAM (P.O.),
KOTTAYAM,PIN-686 001.**
- 3. THE DISTRICT COLLECTOR,
COLLECTORATE,KOTTAYAM,PIN-686 001.**
- 4. THE GEOLOGIST,MINING & GEOLOGY DISTRICT OFFICE,
COLLECTORATE,KOTTAYAM,PIN-686 001.**
- 5. SAJO ABRAHAM,EDAKKATTUTHARA HOUSE,
KATTACHIRA (P.O.),KOTTAYAM DISTRICT,PIN-686 572.**
- 6. ANTONY POTTODATHIL,POTTODATHIL HOUSE,
KATTACHIRA (P.O.),KOTTAYAM DISTRICT,PIN-686 572.**
- 7. GEORGE,MANDAKATHEL HOUSE,KATTACHIRA (P.O.),
KOTTAYAM DISTRICT,PIN-686 572.**
- 8. T.K.RAJESH,THIRUMALA HOUSE,
KATTACHIRA (P.O.),KOTTAYAM DISTRICT,
PIN-686 572.**
- 9. SREEKUMAR,THIRUMALA HOUSE,
KATTACHIRA (P.O.),KOTTAYAM DISTRICT,
PIN-686 572.**

WP(C).No.1534 of 2015 (N)

10. BINDU SREEKUMAR, THIRUMALA HOUSE,
KATTACHIRA (P.O.), KOTTAYAM DISTRICT,
PIN-686 572.

*ADDITIONAL 11TH RESPONDENT IMPEADED

ADDL.R11: HAMZA, AGED 48 YEARS, S/O. KUNJU MUHAMMED,
MULLAPPILLY HOUSE, CHOWARA P.O., ALUVA,
ERNAKULAM DISTRICT.

*ADDITIONAL 11TH RESPONDENT IMPEADED AS PER ORDER
DATED 10.3.2015 IN I.A.NO.2304/2014 IN W.P(C) NO.1534/2015.

R1 BY ADVS.SRI.V.G.ARUN

SRI.T.R.HARIKUMAR

R2 BY SRI.M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

R3 & R4 BY GOVT.PLEADER SRI.K.C.VINCENT.

R5,R7,R8 BY ADV.SRI.P.M.ZIRAJ

R6,R9 & R10 BY ADV.SRI.BABU S. NAIR

ADDL.R11 BY ADVS.SRI.C.A.NAVAS

SRI.T.K.SASIKUMAR

SMT.E.G.AMBILY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, ALONG WITH COC 253/2015 THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE ORDER ISSUE BY THE KERALA STATE POLLUTION CONTROL BOARD,DATED 04-11-2001.

EXT.P2:TRUE COPY OF THE REPRESENTATION DATED 027.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ALONG WITH THE RECEIPT.

EXT.P3:TRUE COPY OF THE REPRESENTATION DATED 24-12-2014 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT OFFICE OF THE KERALA STATE POLLUTION CONTROL BOARD,KOTTAYAM ALONG WITH THE POSTAL ACKNOWLEDGEMENT CARD.

EXT.P4:TRUE COPY OF THE REPRESENTATION DATED 02-01-2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT ALONG WITH THE POSTAL RECEIPT.

EXT.P5:TRUE COPY OF THE REPRESENTATION DATED 29-12-2014 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT ALONG WITH THE POSTAL ACKNOWLEDGEMENT CARD.

RESPONDENT'S EXHIBITS AND ANNEXURES:

EXT.R5(a):TRUE COPY OF THE LICENSE ISSUED BY THE FOURTH RESPONDENT TO THE FIFTH RESPONDENT DATED 23.6.2014.

EXT.R5(b):TRUE COPY OF THE LICENSE DATED 9.1.2015 ISSUE TO THE SEVENTH RESPONDENT BY THE FOURTH RESPONDENT.

EXT.R5(c):TRUE COPY OF THE LICENSE DATED 9.1.2015 ISSUED TO THE EIGHTH RESPONDENT BY THE FOURTH RESPONDENT.

EXT.R5(d):TRUE COPY OF THE CIRCULAR OF KERALA STATE POLLUTION CONTROL BOARD DATED 21.11.2011.

EXT.R5(e):TRUE COPY OF THE CIRCULAR OF THE KERALA STATE POLLUTION CONTROL BOARD DATED 14.1.2015.

EXT.R5(f):TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE SECOND RESPONDENT DATED 10.2.2015 TO THE FIFTH RESPONDENT.

EXT.R5(g):TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE SECOND RESPONDENT DATED 12.2.2015 TO THE SEVENTH RESPONDENT.

EXT.R5(h):TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE SECOND RESPONDENT DATED 12.2.2015 TO THE EIGHTH RESPONDENT.

WP(C).No.1534 of 2015 (N)

**EXT.R5(i):TRUE COPY OF THE RESOLUTION OF FIRST RESPONDENT
PANCHAYATH DATED 17.1.2015.**

**EXT.R5(j):TRUE COPY OF THE PANCHAYATH LICENSE ISSUED TO THE FIFTH
RESPONDENT BY THE FIRST RESPONDENT DATED 16.2.2015.**

**EXT.R5(k):TRUE COPY OF THE PANCHAYATH LICENSE ISSUED TO THE SEVENTH
RESPONDENT BY THE FIRST RESPONDENT DATED 16.2.2015.**

**EXT.R5(l):TRUE COPY OF THE RECEIPT DATED 17.1.2015 ISSUED BY THE FIRST
RESPONDENT TO THE EIGHT RESPONDENT.**

**EXT.R10(a):TRUE COPY OF THE CIRCULAR OF THE KERALA STATE POLLUTION
CONTROL BOARD DATED 21.11.2011.**

**EXT.R10(b):TRUE COPY OF THE CIRCULAR OF THE KERALA STATE POLLUTION
CONTROL BOARD DATED 14.1.2015.**

**EXT.R10(c):TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE
POLLUTION CONTROL BOARD TO THE 10TH RESPONDENT
DATED 10.2.2014.**

**EXT.R10(d):TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE
POLLUTION CONTROL BOARD TO THE 6TH RESPONDENT
DATED 11.2.2014.**

**EXT.R10(e):TRUE COPY OF THE RESOLUTION OF THE KIDANGOOR GRAMA
PANCHAYATH DATED 17.1.2015.**

EXT.R10(f):TRUE PHOTOGRAPHS OF THE UNIT OF THE RESPONDENTS 6,9 & 10.

**EXT.R10(g):TRUE COPY OF THE LICENCE ISSUED TO THE 10TH RESPONDENT
BY THE SECRETARY,KIDANGOOR GRAMA PANCHAYATH
DATED 16.2.2015.**

**EXT.R10(h):TRUE COPY OF THE LICENCE ISSUED TO THE 6TH RESPONDENT BY
THE SECRETARY,KIDANGOOR GRAMA PANCHAYATH
DATED 16.2.2015.**

**EXT.R10(i):TRUE COPY OF THE CONSENT TO OPERATE ISSUED TO THE 10TH
RESPONDENT BY THE KERALA STATE POLLUTION CONTROL BOARD
DATED 4.3.2015.**

**EXT.R10(j):TRUE COPY OF THE CONSENT TO OPERATE ISSUED TO THE 6TH
RESPONDENT BY THE KERALA STATE POLLUTION CONTROL BOARD
DATED,4.3.2015.**

EXT.R11(A):THE PHOTOSTAT COPY OF THE AGREEMENT DATED 31.10.2014.

**EXT.R11(B):THE PHOTOSTAT COPY OF THE CIRCULAR NO.PCB/T4/115/97
DATED 14.1.2015.**

WP(C).No.1534 of 2015 (N)

**EXT.R11(C):THE PHOTOSTAT COPY OF THE MINING AND GEOLOGY LICENSE
NO.73/2014-15/BC/DL/939/DOY/ML/2014 DATED 23.6.2014.**

**EXT.R11(D):THE PHOTOSTAT COPY OF THE SANITARY CERTIFICATE
NO.SCK/53/2014-15 DATED 8.1.2015.**

**EXT.R11(E):THE PHOTOSTAT COPY D & O LICENSE FEE RECEIPT ALONG WITH
PROFESSIONAL TAX RECEIPT DATED 31.1.2015.**

ANNEXURE R2(a):TRUE COPY OF THE COMPLAINT AGAINST BRICK KILN UNITS.

**ANNEXURE R2(b):TRUE COPY OF THE LETTER TO THE KIDANGOOR GRAMA
PANCHAYATH.**

//TRUE COPY//

P.S. TO JUDGE

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P.R.RAMACHANDRA MENON, J.

W.P.(C).No.1534 of 2015
&
Contempt Case (C) No.253 of 2015

Dated this the 10th day of March, 2015

JUDGMENT

The writ petitioner has approached this Court with the following prayers:

- i. Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents 1 to 4 to consider Exts.P2 to P5 representations and to ensure that the functioning of the clay brick manufacturing units of the respondents 5 to 10 are in strict compliance of Ext.P1 order.*
- ii. Issue a writ of mandamus or any other appropriate writ, order or direction, directing respondents 1 and 4 not to grant license or permit for running clay manufacturing units to respondents 5 to 10, without obtaining consent from the Pollution Control Board, in the interest of justice.*
- iii. Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents 1 and 4 not to grant license or permit for running clay manufacturing units to respondents 5 to 10 without ensuring legal sources of brick clay, in the interest of justice.*

W.P.(C).No.1534 of 2015 &
Contempt Case (C) No.253 of 2015

2. When the matter came up for consideration before this Court on 6.2.2015, the following order was passed:

The learned Standing Counsel for the Pollution Control Board submits with reference to the contents of the statement filed that, the brick kiln is being operated without getting necessary clearance from the Pollution Control Board. The learned Counsel for the Panchayath submits that no licence has been granted to the concerned respondent to run the brick kiln.

3. In the said circumstance, no operation of the brick kiln shall be effected till further orders are obtained from this Court.

3. Alleging violation of the said order, the petitioner has moved this Court by way of Contempt Case (C) No.253 of 2015.

4. When the writ petition came up for further consideration on 25.2.2015, taking note of the factual sequences the following order was passed:

Heard both the sides. It is pointed out by the learned counsel for the petitioner that the party respondents are not entitled to operate the units as they cannot be considered as existing units and conditions have not been complied with.

2. The learned counsel appearing for the 10th respondent and the learned counsel appearing for the

W.P.(C).No.1534 of 2015 &
Contempt Case (C) No.253 of 2015

respondents 5, 6, 7 and 8 submit that the Pollution Control Board has issued a subsequent Circular produced as Ext.R10(b), whereby time has been granted till 14.12.2015. it is also pointed out that the concerned respondents are taking necessary steps to satisfy the requirements and that they have already move the Pollution control Board for consent.

3. The learned counsel for the first respondent/Panchayath submits that the applications preferred for grant of license to brick kilns have been considered and the eligible respondents have been given license on 16.2.2015.

4. The learned standing counsel for the Pollution Control Board submits that they have also received the applications along with the documents submitted by the party respondents and that steps are being taken to have them finalised within no time. It is stated that outcome will be brought to the notice of this Court within ten days. The learned standing counsel also points out that ways and means are being thought about, as to permitting the units to run in sequence, i.e. one by one; lest there should be any chance for coercive steps.

5. Today the learned standing counsel for the Pollution Control Board submits that the applications preferred by the concerned respondents were considered and the consent to

W.P.(C).No.1534 of 2015 &
Contempt Case (C) No.253 of 2015

operate has already been given to the respondents 5 to 8 and 10. The learned counsel appearing for the party respondents submits that the ninth respondent happens to be the husband of the tenth respondent and that he does not have any separate property or cause of action.

6. Learned counsel for the writ petitioner however points out that the license issued by the Panchayat as borne by Ext.R5 (j) is only to a limited extent. The learned standing counsel appearing for the Panchayat submits that such a rider was placed in the license issued by the local authority, since consent to operate was still to be issued by the Pollution Control Board. Since the consent has been already given, the Panchayat intends to consider the matter and to issue regular license to the respondents concerned.

In the above circumstances, both the writ petition as well as the contempt of court case are disposed of, as no further orders are necessary, but for observing that the operation of the unit by the concerned respondents shall be subject to proper

W.P.(C).No.1534 of 2015 &
Contempt Case (C) No.253 of 2015

license to be issued by the local authorities and subject to satisfaction of all the conditions imposed by the concerned authority including the Pollution Control Board, Panchayat, Mining and Geology Department and such other establishment.

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

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