

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).No.8486 of 2011 (I)

PETITIONERS :

1. AHAMEDKUTTY PALAPETTA, AGED 46 YEARS,
S/O.MOYIN HAJI, KUNNUMMAL HOUSE, EDAVANNA P.O.
MALAPPURAM DISTRICT.
2. C.T.MUHAMMEDALI, AGED 62 YEARS,
S/O.HYDERMANKUTTY, CHALILTHODIKA HOUSE, KUNNUMMAL,
EDAVANNA P.O., MALAPPURAM DISTRICT.
3. SARABEEVI P. AGED 49 YEARS,
W/O.LATE C.T.ABOOBACKER, CHALILTHODIKA HOUSE,
KUNNUMMAL, EDAVANNA P.O., MALAPPURAM DISTRICT.

BY ADV. SRI.P.VENUGOPAL

RESPONDENTS :

1. N.YAHYA KHAN, S/O.ABOOBACKER HAJI,
PROPRIETOR, M/S.BAJINA WOOD INDUSTRIES' EDAVANNA,
RESIDING AT NEERULPAN HOUSE, PATHAPIRIYAM,
MALAPPURAM DISTRICT.
2. SECRETARY,
EDAVANNA GRAMA PANCHAYATH, P.O.EDAVANNA,
MALAPPURAM DISTRICT (676541).
3. EDAVANNA GRAMA PANCHAYATH,
P.O.EDAVANNA, MALAPPURAM DISTRICT (676541)
REP. BY ITS SECRETARY.
4. DEPUTY DIRECTOR OF PANCHAYATHS,
MALAPPURAM (676505).
5. REVENUE DIVISIONAL OFFICER,
PERINTHALMANNA.
6. DISTRICT COLLECTOR,
MALAPPURAM (676 505).
7. ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, KUNNUMMAL P.O., MALAPPURAM (676 505).

WP(C).No.8486 of 2011 (I)

ADDL.R8 : MOHAMMED ALI,
 S/O.ALAVI, AGED 56 YEARS,
 KAMBARATH HOUSE. P.O.MAMBAD,
 MALAPPURAM DISTRICT 676542.

(ADDL.R8 IS IMPEADED AS PER ORDER DTD.18.7.2011 IN I.A.11480/11.)

 BY ADV. SRI.M.K.CHANDRAMOHAN DAS,SC,POLL.C.BOAR
R2 & R3 BY ADV. SRI.K.M.SATHYANATHA MENON
R-4,5 & 6 BY GOVERNMENT PLEADER SRI.P.V.ELIAS
R1 BY ADV. SRI.K.M.FIROZ
R1 BY ADV. SMT.M.SHAJNA
R8 BY ADV. SRI.THAMPAN THOMAS
R8 BY ADV. SRI.B.V.JOY SANKER
R7 BY ADV. SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

 THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : COPY OF A ROUGH SKETCH SHOWING THE SAW MILL AND THE RESIDENTIAL PREMISES OF THE PETITIONERS.
- EXT.P2 : COPY OF THE REPRESENTATION SUBMITTED BY THE FIRST PETITIONER TO THE SECOND RESPONDENT DTD.18.12.2010.
- EXT.P3 : COPY OF THE REPRESENTATION SUBMITTED BY the PETITIONER TO THE SECOND RESPONDENT ON 22.12.2010.
- EXT.P4 : COPY OF THE CERTIFICATE ISSUED BY THE SECOND RESPONDENT ON 24.1.2011.
- EXT.P5 : COPY OF THE REPRESENTATION SUBMITTED BY THE FIRST PETITIONER TO THE POLLUTION CONTROL BOARD DTD.25.1.2011.
- EXT.P6 : COPY OF THE LETTER ISSUED BY THE SEVENTH RESPONDENT TO THE FIRST RESPONDENT DTD.8.3.2011.
- EXT.P7 : COPY OF THE REPRESENTATION SUBMITTED BY THE FIRST PETITIONER TO THE FIFTH RESPONDENT DTD18.2.2011.
- EXT.P8 : COPY OF THE REPLY/NOTICE ISSUED BY THE SIXTH RESPONDENT DTD.13.1.2011.
- EXT.P9 : COPY OF THE SHOW CAUSE NOITCE ISSUED BY THE SECOND RESPONDENT TO THE FIRST RESPONDENT DTD.4.2.2011.

RESPONDENTS' EXHIBITS:-

- EXT.R2(a) : COPY OF THE COMMUNICATION DTD.22.11.2011 ISSUED BY THE PANCHAYATH TO SRI.KABRATH MUHAMMEDALI.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.8486 of 2011

Dated this the 29th day of June, 2015

JUDGMENT

The petitioners, who are residents of Ward No.X of Edavanna Grama Panchayat in Malappuram District, have filed this Writ Petition seeking a writ of mandamus commanding the 2nd respondent to prohibit and stop the functioning of a 'saw mill' illegally run by the 1st respondent and for other consequential reliefs.

2. By order dated 17.6.2011 this Court ordered that, in case the first respondent is running the saw mill without obtaining licence from respondents 2 and 3 and without consent to operate from respondent No.7, the competent authority among the respondents shall ensure that the saw mill is not functioning.

3. During the pendency of this Writ Petition the additional 8th respondent purchased the saw mill from the 1st respondent. On 8.11.2011, based on the submission made by the additional 8th respondent that an application dated 15.9.2011 for licence to

conduct the saw mill is pending consideration before the Panchayat, this Court passed an interim order directing the 2nd respondent to consider and pass appropriate orders thereon within a period of two weeks from the date of that order.

4. The second respondent has filed an additional counter affidavit dated 17.12.2011, producing therewith as Ext.R2(a), a communication of the Panchayat addressed to the additional 8th respondent. As borne out from Ext.R2(a), for considering the application for licence submitted by the additional 8th respondent, the Panchayat sought instructions from the Forest Department as to whether they have already issued No Objection Certificate for the proposed saw mill. Accordingly, the Divisional Forest Officer by letter dated 19.11.2011 informed the Panchayat that, the licence can be issued only after getting No Objection Certificate from the Forest Department. It was also found that, the additional 8th respondent has also not complied with the conditions imposed by the Pollution Control Board. In such circumstances, the matter was considered in the meeting held on 22.11.2011 and a decision was taken that the application for licence submitted by the additional 8th respondent can be considered only after compliance with all the

conditions imposed by the Pollution Control Board and after producing No objection Certificate from the Forest Department.

5. In view of Ext.R2(a), the grievance of the petitioners is redressed for the time being, as the application for licence submitted by the additional 8th respondent has already been rejected by the Panchayat as borne out from the aforesaid communication.

In view of Ext.R2(a), no further orders are necessary in this matter and this Writ Petition is disposed of making interim order dated 17.6.2011 absolute, and it is made clear this judgment will not stand in the way of the additional 8th respondent conducting the saw mill on the basis of a valid licence obtained from the 2nd respondent/Panchayat after fulfilling all statutory formalities, including consent from the Pollution Control Board, No Objection Certificate from the Forest Department, etc.

ANIL K.NARENDRAN, JUDGE

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