

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 5766 of 2015 (U)

PETITIONER:

**SHILPA HOSPITALITY PVT.LTD,
M.C.ROAD, AYUR P.O., KOLLAM-691533,
REPRESENTED BY ITS MANAGING DIRECTOR SHAJI R.**

**BY ADVS.SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.V.RENJITH KUMAR
SRI.ASWIN.P.JOHN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY FOR TAXES DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
TRIVANDRUM - 695 001.**
- 2. COMMISSIONER OF EXCISE,
TRIVANDRUM - 695 001.**
- 3. DEPUTY COMMISSIONER OF EXCISE,
KOLLAM - 691 013.**
- 4. DISTRICT COLLECTOR,
KOLLAM - 691 013.**
- 5. DISTRICT POLICE CHIEF,
KOLLAM RURAL, KOTTARAKKARA - 691 506.**
- 6. CIRCLE INSPECTOR OF POLICE,
KADAKKAL - 691 501.**

BY GOVERNMENT PLEADER SMT.SANJEETHA.K.A

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 5766 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: THE TRUE COPY OF THE ORDER NO.M.5-1425/2015(1)
DATED 20.2.2015 AND TRANSLATION.**
- EXHIBIT P2: THE TRUE COPY OF THE JUDGMENT DATED 5.3.2009 IN WPC 5748 OF
2009.**
- EXHIBIT P3: THE TRUE COPY OF THE JUDGMENT DATED 16.2.2005 IN
WPC NO.5187/2005.**
- EXHIBIT P4: THE TRUE COPY OF THE CIRCULAR DATED 29.4.2009 ISSUED BY THE
CHIEF SECRETARY OF THE STATE.**
- EXHIBIT P5: THE TRUE COPY OF THE JUDGMENT OF CONTEMPT OF COURT CASE
NO.1210/2006 DATED 4.7.2008.**
- EXHIBIT P6: THE TRUE COPY OF THE REPRESENTATION DATED 21.2.2015
SUBMITTED BY THE PETITIONER.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

.A. TO JUDGE

mbr/

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 5766 of 2015

Dated this the 26th day of February, 2015

JUDGMENT

The petitioner, a Hotel, has filed the writ petition impugning Exhibit P1 notice issued by the fourth respondent to some other Hotel not to vend liquor on 28.02.2015 in view of the Kadakkal Thiruvathira Festival on the said date.

2. The contention of the learned counsel for the petitioner is that the petitioner's hotel is situated about 14Kms away from the place of the festivities.

3. The learned Government Pleader, on instructions, has submitted that the petitioner's hotel is situated about 10 Kms from the place of festival. She has also further submitted that no prohibitory order has been served on the petitioner and, in fact, Exhibit P1 order was served on some

other hotel, which is situated in the closer vicinity. According to her, the writ petition is without any basis.

4. The learned counsel for the petitioner, countering the submissions made by the learned Government Pleader, has submitted that going by the previous practice the respondent authorities may serve a notice at any moment before 28th or even on the very 28th of this month, since there is an averment in Exhibit P1 that all hotels within the jurisdiction shall be closed on that date.

5. Recording the submission of the learned Government Pleader that so far no notice has been served on the petitioner by any of the respondents, this Court closes the writ petition as having not survived for any further consideration.

6. Before parting, it is however observed that on more than one occasion previously this Court deprecated the practice of serving prohibitory orders shortly before the occurrence of the festivities. In the present instance, since no notice has been served on the petitioner to this day, and the festivities are to take place within a week's time, it is expected that no further orders of interdiction are issued to

the petitioner without providing it a clear period of seven days' time as has been mandated by this Court through various judgments.

With the above observation, this writ petition is closed.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-