

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

WP(C).No. 5997 of 2014 (Y)

PETITIONER(S):

**URALUNGAL LABOUR CONTRACT CO-OPERATIVE SOCIETY
NO.10957, REPRESENTED BY ITS PRESIDENT,
MADAPPALLY COLLEGE P.O., VADAKARA, KOZHIKODE.**

**BY ADVS.SRI.M.SASINDRAN
SRI.V.VENUGOPAL**

RESPONDENT(S):

- 1. THE DISTRICT POLICE CHIEF, MALAPPURAM - 676 505.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
KONDOTTY, MALAPPURAM DISTRICT, PIN:673 638.**
- 3. THE STATION HOUSE OFFICER,
MONDOTTY-673 638, MALAPPURAM DISTRICT.**
- 4. SADHIK N.,
S/O KUHIRAYINKUTTY, UPPUVALLIMMAL HOSUE,
K.V.KAVU P.O.-676 505, PULIKKAL, MALAPPURAM DISTRICT.**
- 5. MUHAMMED ASLUN N.,
S/O SULAIMAN MUSLIAR, K.V.KAVU P.O.-676 505, PULIKKAL,
MALAPPURAM DISTRICT.**
- 6. SIDDIK N.,
S/O SULAIMAN MUSLIAR, K.V.KAVU P.O.-676 505, PULIKKAL,
MALAPPURAM DISTRICT.**

*** ADDITIONAL R7 & R8 IMPEADED**

- 7. KERALA STATE POLLUTION CONTROL BOARD,
REPRESENTED BY ITS CHAIRMAN, PATTOM P.O.,
THIRUVANANTHAPURAM -695004.**

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8. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, MALAPPURAM - 676 505.

* ADDL. R7 & R8 ARE IMPEADED AS PER ORDER DATED 07/03/2014
IN IA 3617/2014.

* ADDITIONAL R9 IMPEADED

9. THE CHERUKAVU GRAMA PANCHAYATH,
CHERUKAVU, PULIKKAL P.O. - 673637,
MALAPPURAM DISTRICT,
REPRESENTED BY ITS SECRETARY.

* ADDL. R9 ARE IMPEADED AS PER ORDER DATED 09/12/2015
IN IA 4277/2014.

R1-R3 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R4-R6 BY ADV. SRI.R.RAMADAS
R7 & R8 BY ADV. SRI. M.AJAY, SC
R9 BY ADVS. SRI.BABU S. NAIR
SRI.K.RAKESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: A TRUE COPY OF THE BUILDING PERMIT GRANTED BY THE SECRETARY OF THE CHERUKAVU GRAMA PANCHAYATH.

EXHIBIT P1(A): TRUE ENGLISH TRANSLATION OF EXHIBIT P1.

EXHIBIT P2: A TRUE COPY OF THE LICENSE ISSUED TO THE PETITIONER SOCIETY FOR OPERATING DRUM MIX PLANT.

EXHIBIT P2(A): TRUE ENGLISH OF TRANSLATION OF EXHIBIT P2.

EXHIBIT P3: A TRUE COPY OF THE CONSENT GIVEN BY THE KERALA STATE POLLUTION CONTROL BOARD DATED 17.5.2013.

EXHIBIT P4: A TRUE COPY OF THE PHOTOGRAPHS SHOWING THE INSTALLATION OF THE DRUM MIX PLANT.

EXHIBIT P5: TRUE COPY FO THE LETTER OF ACCEPTANCE OF THE CONTRACT WORK ISSUED BY THE SUPERINTENDING ENGINEER, (PWD) NATIONAL HIGHWAY DATED 13.1.2014.

EXHIBIT P5(A): TRUE COPY OF THE AGREEMENT DATED 13.2.2013 FOR THE CONSTRUCTION OF ROAD.

EXHIBIT P6: TRUE COPY OF THE COMPLAINT PREFERRED BY THE PETITIONER SOCIETY BEFORE THE 1ST RESPONDENT.

EXHIBIT P6(A): TRUE COPY OF THE COMPLAINT PREFERRED BY THE PETITIONER SOCIETY BEFORE THE 2ND RESPONDENT.

EXHIBIT P6(B): TRUE COPY OF THE COMPLAINT PREFERRED BY THE PETITIONER SOCIETY BEFORE THE 3RD RESPONDENT.

EXHIBIT P7: TRUE COPY OF THE RECEIPT SHOWING ACCEPTANCE OF THE COMPLAINT FILED BY THE PETITIONER SOCIETY BY THE 1ST RESPONDENT.

EXHIBIT P7(A): TRUE ENGLISH TRANSLATION OF EXHIBIT P7.

EXHIBIT P8: A TRUE COPY OF THE NOTICE DTD.26.2.2104 RECEIVED BY THE PETITIONER SOCIETY ON

EXHIBIT P8(a): TRUE ENGLISH TRANSLATION OF EXT.P8.

EXHIBIT P9: A TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO THE EXT.P8, DTD.10.3.2014.

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RESPONDENT(S)' EXHIBITS:

EXT.R6(a): TRUE COPY OF THE STOP MEMO DTD.26.2.2014 ISSUED BY THE
SECRETARY OF THE CHERUKAVU GRAMA PANCHAYATH AND ENGLISH
TRANSLATION.

RESPONDENT(S)' ANNEXURES:

ANNEXURE R8A: TRUE COPY OF DIRECTION DTD.11.4.2014.

ANNEUXRE R8B: A COPY OF LETTER FROM THE PETITIONER DTD.16.4.2014.

ANNEXURE R8C: TRUE COPY OF LETTER DTD.21.4.2014.

//TRUE COPY//

P.S.TO JUDGE

Msv/

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.P.(C) No.5997 of 2014

Dated this the 9th day of December 2015

J U D G M E N T

Shaffique, J.

The petitioner is a Society, who has approached this Court seeking for police protection in the matter relating to establishment of a Drum Mix Plant in R.S.No.253/5/6/7/8/9 of Cherukavu Village. It is submitted that respondents 4 to 6 were preventing construction of the Drum Mix Plant and though a complaint was given to the police for necessary protection in the matter, no action has been taken by the police and hence, the petitioner has approached this Court.

2. During the pendency of the writ petition, an interim order had been passed by this Court on 26.3.2014 directing the police to grant sufficient protection to the petitioner for conducting a trial run.

3. Learned counsel for the petitioner submits that the Pollution Control Board in its letter observed that the petitioner had made necessary arrangements for rectifying the defects pointed out by them and it was also indicated that no changes should be made to the existing plant unless permission is obtained from the Pollution Control Board.

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4. In the counter affidavit filed by the 6th respondent, it is stated that the existence of the Drum Mix Plant may cause pollution to the neighbouring locality.

5. Having regard to the fact that the Pollution Control Board had already taken necessary steps to verify whether any pollution is being caused to the neighbouring locality, we do not think that respondents 4 to 6 will be justified in physically obstructing the petitioner from functioning the Drum Mix Plant.

Under such circumstances, this writ petition is disposed of as under :-

If there is any obstruction from respondents 4 to 6 or their men in the matter relating to establishing and operating the Drum Mix Plant as per the directions issued by the Pollution Control Board, the 3rd respondent shall ensure maintenance of law and order and also ensure that no obstruction is being caused by any person.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE