

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 10693 of 2012 (J)

PETITIONER(S) :

- 1. ANNA PLASTICS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.**
- 2. CHALISSERY CHEMICALS & LUBRICANTS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.**
- 3. UNIVERSAL PETRO CHEMICALS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETRIX.**
- 4. EAGLE PRODUCTS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.**
- 5. JYOTHI VESSELS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.**
- 6. J & D ENTERPRISES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.**
- 7. J.J. PLASTICS INDUSTRIES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.**
- 8. JOMAS INDUSTRIES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.**
- 9. PARAMOUNT PLASTICS INDUSTRIES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.**

10. POPULAR PLASTIC INDUSTRIES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
11. POLYMER MOULDERS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
12. PRATHEEKSHAS SIVASAKTHY,
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
13. RAJESH KUMAR ELECTROPLATING
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
14. RAJI PLASTICS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
15. SAROMA ENGINEERS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETRIX.
16. ST.JOSEPHS ENGINEERS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
17. MINI JOB WORKS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
18. BLOW PLASTICS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
19. G.R.PLASTICS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
20. SREE LAKSHMI ROPES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
21. SUPREME PLASTICS INDUSTRIES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
22. GOLDEN VIEW PLATING
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETORIX.

23. BLOW PLAST
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
24. PETROMER PLASTICS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PARTNER.
25. THREE STAR ELECTRO PLATING WORK
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
26. MULTI TECH ENGINEERING
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
27. TWO STAR GOLD COVERING
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
28. TOOLING ALLIED INDIA
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
29. SUNSTAR POLYMERS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
30. PAUL AND SONS PLASTICS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
31. ANSA PLASTICS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
32. BEEPEE GOLD IMITATIONS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
33. VIPUL WOOD INDUSTRIES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.
34. MOULD TECH
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.
35. MODERN MACHINE MANUFACTURES
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS MANAGING PARTNER.

**36. DEVI KRIPA ENGINEERING WORKS
MAJOR INDUSTRIAL ESTATE, OLLUR, THRISSUR
REP. BY ITS PROPRIETOR.**

**BY ADVS.SRI.DINNY THOMAS
SRI.ALBERT V. JOHN**

RESPONDENT(S) :

**1. STATE OF KERALA
REP. BY THE CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**

**2. THRISSUR CORPORATION
THRISSUR - 686 661,
REPRESENTED BY ITS SECRETARY.**

**R1 BY SR. GOVT. PLEADER SRI.E.M.ABDUL KHADER
R2 BY ADVS. SRI.K.P.VIJAYAN, SC
SRI.V.M.SYAM KUMAR
SMT.KRIPA ELIZABETH MATHEWS
SRI.V.N.HARIDAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...5/-

APPENDIX

PETITIONER(S) EXHIBITS :

EXHIBIT P1. TRUE COPY OF THE RELEVANT PAGES OF GO (RT) NO.591/94/ID
DATED 5/7/94.

EXHIBIT P2. TRUE COPY OF THE CIRCULAR DATED 16.4.2007.

EXHIBIT P3. TRUE COPY OF THE COMMUNICATION ISSUED BY GOVERNMENT
DATED 19.1.04.

EXHIBIT P4. TRUE COPY OF THE INTERIM ORDER IN WP(C) NO.12816 OF 2009.

EXHIBIT P5. TRUE COPY OF THE INTERIM ORDER IN WP(C) NO.10104 OF 2009.

EXHIBIT P6. TRUE COPY OF THE INTERIM ORDER IN WP(C) NO.6947 OF 2012.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.M. SHAFFIQUE, J.

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W.P. (C) No. 10693 of 2012

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Dated this, the 12th day of November, 2015

J U D G M E N T

Petitioners have approached this Court seeking for the following reliefs;

“(i) Declare that the petitioner units are not governed by the provisions of the Kerala Municipality Act 1994 and that they are exempted from the provisions of the Kerala Municipalities Act 1994 and the Rules framed there under and that the 2nd respondent is not entitled to demand any tax, fee, cess or any other charges and insist on the petitioners for taking any license or to renew any license as per the provisions of the Kerala Municipalities Act 1994 and the rules made thereunder.

(ii) issue a writ of mandamus or other appropriate writ or order directing the 2nd respondent not to demand from the petitioners any tax, fee, cess or any other charges and insist on the petitioners for taking any license or to renew any license as per the provisions of the Kerala Municipalities Act 1994 and the Rules made thereunder.”

2. Reliance is placed on Ext.P1 Government Order dated 5/7/1994, which reads as under;

-:2:-

“Government Order that the Industrial units located in the Industrial Estates/Development Area/Development Mini Industrial Estate/ a consolidated list of which are appended to this order, shall be exempted from obtaining clearances from local bodies, as per the notifications read as first and second paper above.”

3. Ext.P1 apparently is only an exemption granted to the Industrial units located in the Industrial Estates/Development Area/Development Mini Industrial Estate etc. from obtaining clearance from local bodies. In other words, for construction of buildings, they may not be liable to obtain a building permit. However, there is no exemption from payment of tax which is applicable to any building within the Municipal area. In so far as there is no statutory provision which enables exemption being granted for assessment of property tax or service tax etc., in respect of buildings coming within a Municipal area, petitioners are not entitled for the relief as sought for.

Under such circumstances, there is no basis for the claim made by the petitioners. Though the petitioners rely upon the judgment in ***Pepsico India Holdings Private Ltd. v. State of Kerala*** (2007 (2) KLT 835), in the said judgment, what was

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-:3:-

applicable was the Kerala Panchayat Raj Act, 1994. A provision similar to Section 1(2) of the Kerala Panchayat Raj Act, 1994 is not available under the Municipalities Act. Under such circumstances, there is no basis for the above claim and accordingly, this writ petition lacks merit and is dismissed.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

13/11/2015

//True Copy//

PS to Judge