

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 9080 of 2015 (H)

PETITIONER(S) :

**MUNDOL AHAMMED MUHAMMED @ M.A.MUHAMMED MASTER,
AGED 82 YEARS, S/O. AHAMMED, MUNDOL HOUSE, PADNEKKAD P.O.,
671 314 KASARAGOD DISTRICT.**

**BY ADVS.SRI.M.A.ANZAR
SRI.SHOBY K.FRANCIS**

RESPONDENT(S) :

- 1. KANHANGAD MUNICIPALITY,
REP. BY ITS SECRETARY, MUNICIPALITY OFFICE,
KANHANGAD P.O, KASARAGOD- 671 315.**
- 2. SECRETARY,
KANHANGAD MUNICIPALITY, MUNICIPALITY OFFICE,
KANHANGAD P.O., KASARAGOD - 671 315.**

*** ADDITIONAL R3 IMPEADED**

- 3. SRI.M.PRAKASAN,
VKP QUARTERS, ALINGOTH PADENNKAD P.O.,
KANHANGAD, KASARKODE.**

*** ADDITIONAL R3 IMPEADED AS PER ORDER DATED 27.03.2015 IN
I.A.NO.4745 OF 2015.**

**R1 & R2 BY ADV. SRI.T.K.VIPINDAS
ADDL.R3 BY ADVS. SMT.HEMALATHA
SRI.BINU GEORGE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1: TRUE OF THE REGISTRATION CERTIFICATE ISSUED BY THE COMMERCIAL TAX DEPARTMENT TO THE PETITIONER DATED 22-11-2014.**
- EXHIBIT P2: TRUE COPY OF THE LEASE AGREEMENT DATED 07-12-2004 ISSUED BY THE LAND LORD TO THE PETITIONER**
- EXHIBIT P3: TRUE COPY OF THE LICENSE ISSUED BY THE RESPONDENT DATED 23-08-2014 TO M.PRAKASHAN.**
- EXHIBIT P4: TRUE COPY OF THE REQUEST DATED 28-11-2014 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.**
- EXHIBIT P5: TRUE COPY OF THE REVOCATION OF CONSENT ISSUED TO THE PRAKASHAN AND GRANTING OF THE CONSENT IN FAVOUR OF THE PETITIONER SUBMITTED TO THE RESPONDENT DATED 29-11-2014.**
- EXHIBIT P6: TRUE COPY OF THE SHOW CAUSE NOTICE DATED 23-01-2015 ISSUED BY THE 2ND RESPONDENT.**
- EXHIBIT P7: A TRUE COPY OF THE APPLICATION DATED 25.03.2015 SUBMITTED BY THE PETITIONER TO THE FIRST RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.9080 of 2015

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Dated this the 13th day of July, 2015

JUDGMENT

The petitioner has approached this Court for a direction to respondents 1 and 2 to consider and dispose of Ext.P7 after hearing the petitioner within a time frame.

2. The petitioner started business in the name and style "Mundol Exports" which includes the sale of granites, bricks, ready made garments, textiles, marbles, cements, granite blocks, tile etc. He is conducting the business in the building owned by Ansarul Islam Juma-ath Committee, Padnekkad in the rooms bearing nos.K.M.C W/XX/414-f to J. He started the textile shop in March, 2014 in the room nos.KMC W/XX/414-i to J and registered with commercial tax departments and the rooms were numbered by the respondent municipality.

3. The petitioner is an aged man and cardiac patient undergoing treatment. Since he was not able to do the day to day business activities, he entrusted the day to day management of the business with one M. Prakasan. The petitioner believed Prakashan

and entrusted all the papers and documents for the functioning of the business for obtaining the municipality licence. The petitioner also gave blank signed papers and signed cheque leaves to him, when the same had been demanded by Prakashan.

4. The petitioner alleges that the said Prakashan, forgoing the signature of the petitioner and misusing the blank signed papers, approached the landlord with a request to give him a consent letter in his name to produce the same before the respondent municipality to obtain municipal licence in his name. Believing the forged letter, the landlord issued consent to get the licence in the name of Prakashan and he obtained licence in his name. It is alleged that actually the landlord executed the lease agreement with the petitioner as early as on 7.12.2004 and the same has been extended from time to time till date as per Ext.P2.

5. When the petitioner enquired about the steps taken by the respondent municipality in the matter of issuing licence to him to conduct the textile shop, he came to know that the Prakashan fraudulently obtained the municipality licence in his name on 23.8.2014 for 2014-15 as per Ext.P3. When the petitioner came to understand about Ext.P3, he contacted the landlord and requested

to cancel the consent issued in favour of Prakashan and the landlord cancelled the consent forthwith. Immediately, the petitioner submitted a request to the second respondent to cancel Ext.P3 issued to Prakashan on 28.11.2014 as per Ext.,P4. On receipt of Ext.P4, the landlord recalled the consent on 29.11.2014 and granted absolute consent to the municipality to issue licence in the name of the petitioner as per Ext.P5. On receipt of Ext.P5, the second respondent issued Ext.P6 notice to show cause why Ext.P3 licence cannot be revoked. In spite of the issuance of Ext.P6, no further action was taken by the respondents to finalise the same.

7. Heard both sides.

8. When the matter was taken up, the learned counsel for the petitioner inviting my attention to I.A No.7758 has confined his argument to the limited prayer for a direction to the respondent to consider and pass orders on Ext.P7 application produced along with IA after affording the petitioner as well as the third respondent an opportunity of being heard.

Considering the nature of the submission, this writ petition is disposed of directing respondents 1 and 2 to consider and pass appropriate orders on Ext.P7 application affording the

petitioner as well as the third respondent an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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