

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 9351 of 2015 (T)

PETITIONER(S):

**ELIXIR VILLAS AND APARTMENTS PRIVATE LIMITED,
KUTTANELLOOR P.O., OLLUR VILLAGE, THRISSUR TALUK,
REPRESENTED BY ITS MANAGING DIRECTOR TITTO VARGHESE,
S/O.VARGHESE, AGED 31 YEARS, RESIDING AT AKKARA,
ANCHERI P.O., ANCHERI DESOM, OLLUR VILLAGE,
THRISSUR TALUK.**

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT, PIN - 680 001.**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY
KESAVADASAPURAM, PATTAM,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
ENVIRONMENT & CLIMATE CHANGE DEPARTMENT,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 4. THE UNION GOVERNMENT OF INDIA,
REPRESENTED BY SECRETARY,
ENVIRONMENTAL DEPARTMENT,
NEW DELHI, PIN - 110 006.**

WP(C).No. 9351 of 2015 (T)

**5. KERALA STATE ENVIRONMENTAL IMPACT
ASSESSMENT AUTHORITY, PALLIMUKKU, PETTA P.O.,
THIRUVANANTHAPURAM - 695 024,
REPRESENTED BY ITS CHAIRMAN.**

**R1 TO R3 BY GOVT. PLEADER SRI.JOSEPH GEORGE.
R4 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.
SMT.SINDHUMOL.T.P., CGC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1- TRUE COPY OF BUILDING PERMIT DATED 28.10.2014 ISSUED BY THE THRISSUR CORPORATION.**
- P2- TRUE COPY OF THE TAX RECEIPT DATED 10.07.2014 ISSUED BY THE VILLAGE OFFICER, OLLUR.**
- P3- TRUE COPY OF THE TAX RECEIPT DATED 17.04.2014 ISSUED BY THE VILLAGE OFFICER, OLLUR.**
- P4- TRUE COPY OF THE RELEVANT PAGES OF BASIC TAX REGISTER FO OLLUR VILLAGE OFFICE REGARDING THE PROPERTY OF PETITIONER.**
- P5- TRUE COPY OF THE POSSESSION, LOCATION, NON-L.A, CERTIFICATES AND LOCATION SKETCH DATED 21.11.2014 ISSUED BY THE VILLAGE OFFICER, OLLUR VILLAGE.**
- P6- TRUE COPY OF THE SAID APPLICATION SUBMITTED BY THE PETITIONER DATED 19.12.2014 BEFORE THE KERALA STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY.**
- P7- TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE PETITIONER DATED 08.12.2014.**
- P8- TRUE COPY OF THE CONSENT LETTER ISSUED BY ONE MR.FRANCIS AND HIS WIFE MR.SMITHA FRANCIS DATED 19.02.2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.9351 of 2015

Dated this the 31st day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"1. issue a writ of mandamus or any other writ, order or direction, directing to the first respondent to issue permit and sufficient O(A) forms to the petitioner to extract and transport earth from the property of petitioner for the purpose of construction commercial building on the basis of Exhibit P1 building permit without insisting clearance certificate from Kerala State Environmental Impact Assessment Authority.

2. Direct the first respondent to receive and consider Exhibit P6 application of petitioner within a reasonable period which this Honourable Court may deem fit and proper in the interest of justice and circumstances of the case after appointing a committee by the fourth respondent.

3. Direct the fourth respondent to make alternative arrangements to receive and consider Exhibit P6 application of petitioner within a reasonable period which this Honourable Court may deem fit and proper in the interest of justice and circumstances of the case.

4. Issue such other writ or orders or directions, which this Honourable Court may deem fit and proper in the interest of justice and circumstances of the case."

2. The learned counsel for the petitioner submits that the petitioner has already moved the 5th respondent by filing Ext.P6 application for issuance of an 'Environmental Clearance Certificate'. But the same was not accepted stating that the office of the 5th respondent was laying vacant and that it is still to be reconstituted. This made the petitioner to approach this Court by filing the writ petition.

3. Heard the learned Government Pleader appearing for the respondents 1 to 3 and 5 as well as the learned Standing Counsel appearing on behalf of the authorities of the 4th respondent.

4. The learned Government Pleader points out that, the 5th respondent authority has already been reconstituted and as such, the matter could be disposed of, directing the said authority to have Ext.P6 to be considered within a reasonable time.

5. In the above circumstances, the petitioner is relegated to submit Ext.P6 application before the 5th respondent and if any such application is filed within 'two weeks' from the date of receipt of a copy of this judgment, the same shall be considered

and appropriate orders shall be passed by the 5th respondent in accordance with law, after affording an opportunity of hearing to the petitioner, at the earliest, at any rate, within 'six weeks' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 5th respondent, for further steps.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

sp