

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 9384 of 2015 (W)

PETITIONER : -

GEETHU GIREESHAN,
D/O.GIREESHAN, AGED 27 YEARS,
ARUNIMA, KATTACHALKUZHIL.P.O,
BALARAMAPURAM,
THIRUVANANTHAPURAM REPRESENTED BY HER POWER OF
ATTORNEY HOLDER R.C.SATHEESH BABU ,
S/O.CHELLAPPAN, AGED 54 YEARS, SREYAS.K.P.1/195,
MUTTADA P.O, THIRUVANANTHAPURAM - 25.

BY ADVS.SRI.THOMAS T.VARGHESE
SRI.N.SASI

RESPONDENTS : -

1. THE CHIEF TOWN PLANNER,
OFFICE OF THE CHIEF TOWN PLANNER,
THIRUVANANTHAPURAM.PIN 695001.
2. NEDUMBANA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY NDUMPANA P.O,
KOLLAM 695 580.
3. INDIAN OIL CORPORATION LTD.,
REPRESENTED BY ITS REGIONAL MANAGER, PANAMPALLY AVENUE,
PANAMPALLY NAGAR, COCHIN 682 036.

R2 BY ADV.SRI.M.R.SASITH, SC
R3 BY SRI.M.GOPIKRISHNAN NAMBIAR
R1 BY GOVERNMENT PLEADER SRI. JUSTIN JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S' EXHIBITS : -

EXHIBIT P1: TRUE COPY OF THE LEASED DEED DATED 23.10.2013 EXECUTED BETWEEN KRISHNAN KUTTY AND THE PETITIONER.

EXHIBIT P1(a) : TRUE TRANSLATION OF EXHIBIT P1.

EXHIBIT P2 : TRUE COPY OF THE LETTER OF INTENT DATED 26.08.2014 ISSUED BY THE INDIAN OIL CORPORATION TO THE PETITIONER.

EXHIBIT P3 : TRUE COPY OF THE APPLICATION FOR PERMIT DATED 15.10.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT PANCHAYATH.

EXHIBIT P4 : TRUE COPY OF THE NOC DATED 17.12.2014 ISSUED BY THE PANCHAYATH.

EXHIBIT P4 (a) : TRUE TRANSLATION OF EXHIBIT P4.

EXHIBIT P5 : TRUE COPY OF THE CERTIFICATE OF REGISTRATION OBTAINED BY THE PETITIONER UNDER KVAT ACT DATED 4.3.2015.

EXHIBIT P6 : TRUE COPY OF THE EXPLOSIVE LICENSE ISSUED BY THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES, KOCHI.

EXHIBIT P7 : TRUE COPY OF THE NOC DATED 12.02.2015 ISSUED BY THE DIVISIONAL OFFICER, FIRE AND RESCUE SERVICES, THIRUVANANTHAPURAM.

EXHIBIT P8 : TRUE COPY OF THE NOC DATED 12.1.2015 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD.

EXHIBIT P9 : TRUE COPY OF THE LICENSE ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P9(a) : TRUE TRANSLATION OF THE EXHIBIT P9.

EXHIBIT P10 : TRUE COPY OF THE ORDER DATED 20.2.2015 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P 10(a) : TRUE TRANSLATION OF THE EXHIBIT P10.

EXHIBIT P11 : TRUE COPY OF THE JUDGMENT DATED 17.1.2014 IN W.P.C NO.856/2014.

EXHIBIT P12 : TRUE COPY OF THE JUDGMENT DATED 2.9.2014 IN W.P.C.NO.23120/2014.

WP(C).No. 9384 of 2015 (W)

EXHIBIT P 13 : TRUE COPY OF THE LETTER DATED 16.03.2015 ISSUED BY 2ND
RESPONDENT.

EXHIBIT P 13 (a) : TRUE TRANSLATION OF EXHIBIT P 13.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 9384 of 2015

Dated this the 09th day of April, 2015

JUDGMENT

The petitioner, an unemployed Engineering Graduate, having obtained from the third respondent LPG Distributorship, applied to the respondent Grama Panchayat for building permit. When the respondent Grama Panchayat forwarded the petitioner's application, the first respondent issued Exhibit P10 proceedings permitting the respondent Grama Panchayat to issue building permit, subject to the conditions imposed therein. The condition No.7 in Exhibit P10 is that the petitioner is required to obtain NOC from the owners of the neighbouring plots and houses. Assailing the said condition as being extra statutory, the petitioner has filed the present writ petition.

2. The learned counsel for the petitioner has brought to the notice of this Court Exhibits P11 and P12 judgments,

through which the issue has been concluded to the effect that the first respondent cannot insist on production of NOC from the neighbours.

None of the counsel for respondents could bring to my notice whether any subsequent legal developments had taken place disturbing the binding nature of either Exhibit P11 or Exhibit P12. Under these circumstances, it is essential that the writ petition be allowed on the same terms as have been declared in Exhibit P11 judgment. Accordingly, the present writ petition is allowed setting aside condition No.7 in Exhibit P10.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-