

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 13620 of 2012 (B)

PETITIONER(S):

- 1. T. VIJAYAKUMAR, AGED 53 YEARS,
S/O.K.P. THANKAPPAN, SYAM NIVAS, PONGODU,
VELIYAM P.O., POOYAPALLY VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT.**
- 2. M. BIJU, AGED 35 YEARS, S/O.G. MATHAI,
MULLUKATTIL KOCHUVILA VEEDU, PONGODU,
VELIYAM, POOYAPALLY VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT.**

**BY ADVS.SRI.K.V.ANIL KUMAR,
SRI.AJITH MURALI.**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
KOLLAM COLLECTORATE, KOLLAM-691 001.**
- 2. THE ENVIRONMENT ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, KOLLAM, PIN-691 008.**
- 3. THE SECRETARY,
POOYAPPALLY GRAMA PANCHAYATH, POOYAPPALLY P.O.,
KOLLAM DISTRICT, PIN-691 537.**
- 4. L. JAYADEVAN,
KUNNUVILA PUTHAN VEEDU, PONGODU, VELIYAM,
POOYAPPALLY P.O., KOLLAM DISTRICT, PIN-691 537.**

**R1 BY GOVT. PLEADER SRI.K.K. SAIDALAVI.
R2 BY ADV. SRI.M.R.ARUNKUMAR, SC.
R4 BY ADV. SRI.SYAM J.SAM.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE APPLICATION DATED 21/03/2012 BEFORE THE 3RD RESPONDENT.
- EXT.P2 COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT.
- EXT.P3 COPY OF THE INTEGRATED CONSENT DATED 18/03/2011 ISSUED BY THE 2ND RESPONDENT.
- EXT.P4 COPY OF THE COMPLAINT DATED 02/04/2012 BEFORE THE 3RD RESPONDENT.
- EXT.P5 COPY OF THE COMPLAINT DATED 02/04/2012 BEFORE THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:-

- EXT.R2(1) COPY OF THE INTEGRATED CONSENT TO ESTABLISH ISSUED BY THE 2ND RESPONDENT DATED 18/03/2011.
- EXT.R2(2) COPY OF THE LETTER ISSUED TO THE 4TH RESPONDENT BY THE 2ND RESPONDENT DATED 26/05/2012.
- EXT.R2(3) COPY OF THE INTEGRATED CONSENT TO OPERATE ISSUED BY THE 2ND RESPONDENT DATED 05/09/2012.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J

WPC No.13620 of 2012

Dated this the 5th day of March, 2015

JUDGMENT

The petitioner has come up before this Court for a direction to the second and third respondents to take immediate action to stop the alleged illegal functioning of the 4th respondent's unit by name 'Athira Industries'.

2. The petitioners are aggrieved by the heavy sound and dust pollution from the 4th respondent's Hollow bricks manufacturing unit, viz. 'Athira Industries' situated near their residential property without having proper license from the authorities.

3. The petitioner submits that on the basis of Ext.P1 application, the third respondent has issued Exts.P2 and P3. Ext.P3 is only a consent to establish the unit on certain conditions. Without fulfilling the conditions in Ext.P3, the 4th respondent started the unit which is creating heavy noise and dust pollution in the locality; it is alleged. As per the condition No.2.6 of Ext.P3, the 4th

respondent should obtain 'integrated consent to operate' from the 2nd respondent before commissioning of the unit. It is learnt that the 4th respondent has not obtained valid consent from the 2nd respondent till date. Hence, the petitioner alleges that the license issued from the 3rd respondent is also illegal.

4. The petitioner further alleges that the 4th respondent did not obtain consent letters from the neighbourhood including the petitioners before starting the brick unit. The 4th respondent by violating the conditions of Ext.P3 consent started his unit causing heavy pollution in the locality. No compound wall is constructed as stipulated in the conditions in Ext.P3 consent. The 4th respondent has not constructed enclosure with roof and water sprinklers in the raw materials unloading area.

5. The first petitioner submitted Exts.P4 and P5 complaints before the second and third respondents. Even after the lapse of two months, no action has been so far taken by them; it is stated by the petitioner.

6. Today when the matter came up for hearing, the

learned standing counsel for the second respondent submitted that the various representatives of the Board has conducted site inspection twice, first of which was on 16.12.2011 and the second was on 18.5.2012 and during the second inspection, certain defects were noted by the Pollution Control Board and subsequently, they had issued a notice, copy of which is made available to me as Ext.R2 wherein the following conditions were incorporated.

1 This Integrated Consent to Operate is granted subject to the power of the Board to review and make variation in all or any of the conditions laid hereunder:

2 This Integrated consent to Operate, unless withdrawn earlier and subject to condition No.2.1 shall be valid up to 31.12.2015. For renewal, application in the prescribed form shall be submitted to the Board three months before the date of expiry of this consent.

3 The occupier shall comply with the instructions that the Board may issue from time to time regarding prevention and control of air, water, land and sound pollution.

4 The raw-material unloading area shall always be having adequate enclosure and facility for water sprinkling.

5 Compound wall and enclosure using sold bricks for the work shed shall be maintained.

6 There shall not be any fugitive emission from the unit.

7 There shall not be any discharge of waste water from the unit.

8 There shall not be any operation in the unit between 6 p.m. and 8 a.m.

9 The sound level (Leq) at a distance of 1m. from the boundary of the unit shall not exceed 55dB (A).

10 The concentration of particulate matter(PM₁) in ambient air measured at 1m from the boundary of the unit shall not exceed 100 microgram per cubic metre.

11 The occupier shall at his own cost get the ambient air and sound level monitored once in 6 months and the reports shall be submitted to the Board whenever called for.

12 A board showing the name of the unit and important consent conditions shall be displayed at the entrance.

7. The learned standing counsel for the Pollution Control Board would also submit that the said conditions have not been complied with at the time of the inspection.

Therefore, this writ petition is disposed of directing the second respondent to conduct a site inspection after due notice to the petitioner, party respondent and affected parties to ascertain whether the conditions made

mention of above have been complied with. If defects are there, it shall be open to the Pollution Control Board to fix a time limit of one month for rectifying the defects and if defects are not rectified by the party respondent within the time specified by the Pollution Control Board, it shall be open to the Pollution Control Board to take appropriate action against the party respondent in accordance with law.

**Sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

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true copy

P.S.TO JUDGE