

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 9888 of 2015 (I)

PETITIONER :

**K.K.VARKEY, AGED 69 YEARS, S/O KURUVILA,
PADIKKAKUDIYIL HOUSE, PEECHANAAM MUKAL,
IRIGOLE P.O., PIN:683 548.**

**BY ADVS.SRI.S.RENJITH
SRI.K.R.PRATHISH**

RESPONDENT(S):

- 1. RAYAMANGALAM GRAMA PANCHAYAT,
RAYAMANGALAM P.O., KURUPPUMPADI,
ERNAKULAM-683 545,REP. BY ITS SECRETARY.**
- 2. SENIOR TOWN PLANER,
OFFICE OF THE TOWN PLANNING DEPARTMENT, 4TH FLOOR,
CIVIL STATION, KAKKANAD-682 030.**
- 3. SHAHANAS MUJEEB,
PROPRIETOR M/S. MOON TIMBERS INDUSTRIES,
IRINGOLE P.O., PERUMBAVOOR-583 548.**

**R1 BY ADV. SRI.BINU PAUL
R2 BY GOVERNMENT PLEADER SRI.T.R.RAJESH
R3 BY ADVS. SRI.T.S.JOHN
SRI.JESTIN MATHEW**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: COPY OF THE NOTICE DATED 19.4.2014 ISSUED BY THE POLLUTION CONTROL BOARD OT THE 3RD RESPONDENT.

EXHIBIT P2: COPY OF THE LETTER ALONG WITH SKETCH DATED 20.1.2015 ISSUED BY THE ADDITIONAL TAHSILDAR, KUNNATHUNAD TO THE IST RESPONDENT.

EXHIBIT P2(A): TRUE TRANSLATION OF THE EXT.P2.

EXHIBIT P3: COPY OF THE SKETCH ISSUED BY THE ADDITIONAL TAHSILDAR, KUNNATHUNAD.

EXHIBIT P3(A): TRUE TRANSLATION OF THE EXT.P3 SKETCH.

EXHIBIT P4: COPY OF THE COMPLAINT DATED 19.1.2015 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT.

EXHIBIT P4(A): COPY OF THE TRUE TRANSLATION OF THE EXT.P4.

EXHIBIT P5: COPY OF THE LETTER DATED 6.3.2015 ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.

EXHIBIT P5(A): TRUE TRANSLATION OF THE EXT.P5.

EXHIBIT P6: COPY OF THE COMPLAINT PREFERRED BY THE PETITIONERS AGAINST THE 3RD RESPONDENT DATED 19.1.2015 BEFORE THE IST RESPONDENT.

EXHIBIT P6(A): TRUE TRANSLATION OF EXT.P6.

EXHIBIT P7: COPY OF THE RECEIPT OF THE ACKNOWLEDGEMENT OF THE EXT.P6 COMPLAINT ISSUED BY THE IST RESPONDENT OFFICE.

EXHIBIT P7(A): TRUE TRANSLATION OF THE EXT.P7.

EXHIBIT P8: COPY OF THE APPLICATION DATED 20.2.2015 SUBMITTED BY THE PETITIONER BEFORE THE IST RESPONDENT UNDER THE RIGHT TO INFORMATION ACT.

EXHIBIT P8(A): TRUE TRANSLATION OF THE EXT.P8.

EXHIBIT P9: COPY OF THE INFORMATION SUBMITTED BY THE IST RESPONDENT DATED 11.3.2015 UNDER THE RIGHT TO INFORMATION ACT.

EXHIBIT P9(A): TRUE TRANSLATION OF THE EXT.P9.

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EXHIBIT P10: COPY OF THE INFORMATION DATED 11.3.2015 GIVEN BY THE IST
RESPONDENT UNDER THE RIGHT TO INFORMATION ACT.

EXHIBIT P10(A): TRUE TRANSLATION OF THE EXT.P10.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

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A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 9888 of 2015

Dated this the 15th day of June, 2015

J U D G M E N T

The petitioner has come up before this Court alleging that the 3rd respondent is going to start a plywood unit without obtaining any licence in collusion with the 1st respondent.

2. The petitioner is a resident within the local limits of the respondent panchayath and is residing near to a plywood unit, which was conducted by the 3rd respondent till 2011. The petitioner alleges that for extension purpose, the factory had been closed, and after obtaining consent from the Pollution Control Board, the 3rd respondent made construction in the set back area and expanded his plywood unit near to the boundary. Hence, at present, there is no set back as stipulated by the Kerala Panchayath Building Rules, it is alleged. The Taluk Surveyor, Kunnathunadu conducted a measurement in the property of the 3rd respondent and noted encroachment of an extent of 52 sq.m. and directed the 1st respondent to recover the said

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property from the 3rd respondent. The petitioner's grievance is that though he preferred complaints before the 2nd respondent and the 1st respondent narrating the said facts, they are not taking any action against the 3rd respondent. After Ext.P6 complaint was submitted, the 1st respondent has not issued licence to the 3rd respondent. The petitioner was informed vide Ext.P10 that no action has been taken on Ext.P6 complaint till now. According to the petitioner, respondents 1 and 2 are obliged to ensure that the construction made by the 3rd respondent is in accordance with the approved plan and permit. Hence, this writ petition.

3. Heard the learned counsel for the petitioner, the learned counsel for the respondent panchayath, the learned Government Pleader and the learned counsel for the 3rd respondent.

4. The learned counsel for the 3rd respondent would submit that he has already transferred the property to a third person.

5. The learned counsel for the petitioner would

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submit that the petitioner would be satisfied if a direction is given to respondents 1 and 2 to consider Ext.P6 complaint submitted by him after affording the petitioner and affected parties an opportunity of being heard.

Therefore, the writ petition is disposed of directing respondents 1 and 2 to consider and pass appropriate orders on Ext.P6 after affording the petitioner and any other affected parties including the assignee from the 3rd respondent an opportunity of being heard within a period of one month from the date of receipt of a copy of this judgment. To facilitate a just and speedy action, the 1st respondent shall make a local inspection of the property, wherein the unit in question is situated.

To facilitate an early action, the petitioner shall be at liberty to produce a copy of this judgment as well as a copy of this writ petition before respondents 1 & 2 at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-