

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 10435 of 2014 (D)

PETITIONER(S) :

**FAIZAL MUHAMMED, AGED 37 YEARS,
S/O.KUNHIMUHAMMED, THONIKARA HOUSE,
THACHINGANADAM P.O., PERINTHALMANNA TALUK,
MALAPPURAM DISTRICT.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S) :

- 1. THE STATE OF KERALA,
REP. BY THE SECRETARY TO THE GOVT., AGRICULTURE DEPARTMENT,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM- 695 101.**
- 2. THE LAND REVENUE COMMISSIONER,
PUBLIC OFFICE BUILDING, MUSEUM JUNCTION,
THIRUVANANTHAPURAM - 33.**
- 3. THE DISTRICT COLLECTOR,
COLLECTORATE, MALAPPURAM- 673 001.**
- 4. THE HINDUSTAN PETROLEUM CORPORATION LIMITED,
REP. BY ITS MANAGER, RETAIL ENGG,
KOZHIKODE RETAIL REGION, ELATHUR, KOZHIKODE -673 303.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN

R4 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR

SRI.P.GOPINATH

SRI.P.BENNY THOMAS

SRI.K.JOHN MATHAI

SRI.JOSON MANAVALAN

SRI.KURRYAN THOMAS

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1: A TRUE COPY OF THE SETTLEMENT DEED BEARING
 NO.1316 OF 91 OF THE MELATUR S.R.O DATED 02.04.1991.**
- EXT.P2: A TRUE COPY OF THE ORDER PASSED BY THE SUB COLLECTOR,
 PERINTHALMANNA DATED 03.10.1989.**
- EXT.P3: A TRUE COPY OF THE DEED OF CONSENT GRANTED BY
 THE RAFEEQ THONIKARA DATED 01.07.2009.**
- EXT.P4: A TRUE COPY OF THE DEED OF CONSENT GRANTED BY
 THE KASIM THONIKARA DATED 06.07.2009.**
- EXT.P5: A TRUE COPY OF THE LETTER OF INTENT GIVEN BY
 THE 4TH RESPONDENT DATED 23.11.2009.**
- EXT.P6: A TRUE COPY OF THE COMMUNICATION OF THE ELECTRICITY
 BOARD WITH THE ESTIMATE AND OTHER DETAILS
 DATED 16.06.2012.**
- EXT.P7: A TRUE COPY OF THE APPLICATION FOR N.O.C FILED AT
 THE INSTANCE OF THE FOURTH RESPONDENT DATED 08.12.2009.**
- EXT.P8: A TRUE COPY OF THE CONSENT GRANTED BY THE FIRE AND
 RESCUE SERVICES DIVISIONAL OFFICE, KOZHIKODE
 DATED 08.01.2010.**
- EXT.P9: A TRUE COPY OF THE CONSENT BY THE SUPERINTENDENT OF
 POLICE, MALAPPURAM DATED 20.03.2010.**
- EXT.P10: A TRUE COPY OF THE ORDER PASSED BY THE TAHSILDAR,
 PERINTHALMANNA DATED 05.04.2010.**
- EXT.P11: A TRUE COPY OF THE UNDERTAKING GIVEN BY THE FOURTH
 RESPONDENT DATED 19.04.2010.**
- EXT.P12: A TRUE COPY OF THE APPLICATION OF THE PETITIONER AND
 OTHERS BEFORE THE THIRD RESPONDENT DATED 21.12.2009.**
- EXT.P13: A TRUE COPY OF THE ORDER OF THE THIRD RESPONDENT
 DATED 23.12.2009.**
- EXT.P14: A TRUE COPY OF THE STATUTORY APPEAL FILED BY
 THE PETITIONER BEFORE THE SECOND RESPONDENT
 DATED 28.05.2010.**
- EXT.P15: A TRUE COPY OF THE SKETCH SUBMITTED BY THE PETITIONER
 DATED NIL.**

- EXT.P16: A TRUE COPY OF THE RELEVANT PAGE OF THE ADANGAL REGISTER DATED 25.04.2010.
- EXT.P17: A TRUE COPY OF THE REPORT OF THE THIRD RESPONDENT TO THE SECOND RESPONDENT DATED 12.11.2010.
- EXT.P18: A TRUE COPY OF THE ORDER OF THE SECOND RESPONDENT DATED 25.04.2011.
- EXT.P19: A TRUE COPY OF THE REVISION SUBMITTED BY THE PETITIONER DATED 02.06.2011.
- EXT.P20: A TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT DATED 19.03.2014.
- EXT.P21: A TRUE COPY OF THE REPORT OF THE AGRICULTURAL OFFICER TO THE 1ST RESPONDENT DATED 21.12.2013.
- EXT.P22: A TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER DATED 27.12.2013.
- EXT.P23: A TRUE COPY OF THE GAZETTE NOTIFICATION DATED 07.12.2009.
- EXT.P24: A TRUE COPY OF THE JUDGEMENT IN W.P.(C).NO.24140 OF 08 DATED 28.01.2009 OF THIS HON'BLE COURT.
- EXT.P25: A TRUE COPY OF THE JUDGEMENT IN W.P.(C).NO.9098 OF 2011 DATED 31.01.2014 OF THIS HON'BLE COURT.
- EXT.P26: A TRUE COPY OF THE APPLICATION OF THE PETITIONER BEFORE THE THIRD RESPONDENT DATED 19.08.2015.
- EXT.P27: A TRUE COPY OF THE BUILDING PERMIT IN THE NAME OF THE PETITIONER ISSUED BY THE LOCAL AUTHORITY DATED 06.06.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P(C).No. 10435 of 2014

Dated this the 2nd November, 2015

JUDGMENT

The petitioner applied for No Objection Certificate for establishing a petroleum outlet. This was rejected by the District Collector as per Exhibit P13 and thereafter the higher authorities confirmed the same. It appears that the rejection was on the premise that the property was included in the draft data bank as 'Nilam'.

2. The petitioner now refers to the draft data bank in which it is included as garden land. Therefore, the petitioner submits that there is no impediment for the District Collector in granting permission to establish the petroleum outlet. The petitioner also points out that the local authority has also granted building permit.

3. The petitioner has approached the District Collector as per Exhibit P26 under Clause 6 of the Kerala Land Utilisation Order.

In the above circumstances, this Court is of the view that the District Collector, Malappuram shall consider Exhibit P26 application filed under the Kerala Land Utilisation Order after adverting to the status of the land in the draft data bank and dispose of the same within one month from the date of receipt of a copy of this judgment. If permission is granted under Clause 6 of the Kerala Land Utilisation Order, necessarily, the petitioner's application for No Objection Certificate shall be considered by the third respondent without any delay.

The Writ Petition is disposed of as above.

**A.MUHAMED MUSTAQUE
JUDGE**

vgs3/11/15