

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

WP(C).No. 14740 of 2014 (S)

PETITIONER(S):

**G.REGHU KUMAR, AGED 32 YEARS,
S/O. GOPALAKRISHNAN NAIR, VETTIKATTUKUNNEL HOUSE
PUSHPAKANDOM P.O., PARATHODU VILLAGE, IDUKKI DT.**

**BY ADVS.SRI.VARGHESE C.KURIAKOSE
SRI.K.O.MANUEL (KOPRAMB)**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, IDUKKI
IDUKKI DISTRICT, PYANAVU P.O.-685603.**
- 2. THE GEOLOGIST
MINING AND GEOLOGY DEPARTMENT, DISTRICT OFFICE
MINI CIVIL STATION, THODUPUZHA-685584.**
- 3. THE NEDUMKANDOM GRAMA PANCHAYATH
REP. BY ITS SECRETARY, NEDUMKANDOM-685553.**
- 4. THE MANAGING DIRECTOR
KOSAMATTOM FINANCE CO.PVT. LTD., KOTTAYAM-686001.**

**Addl.5. UNION OF INDIA
REP. BY SECRETARY
DEPARTMENT OF FOREST AND ENVIRONMENTAL AFFAIRS
NEW DELHI.**

**Addl.6. STATE OF KERALA
REP. BY SECRETARY, DEPARTMENT OF FOREST, SECRETARIAT
TRIVANDRUM.**

**(ADDL.R5 AND R6 ARE IMPEADED AS PER ORDER DATED 08.12.2014 IN IA 16199/14.)
R4 BY ADV. SRI.R.RAMADAS
R5 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R1,R2,R6 BY ADV. SR GOVERNMENT PLEADER SRI.P.I.DAVIS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 14740 of 2014 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- PHOTOGRAPHS SHOWING EXCAVATION OF EARTH.

EXHIBIT P2- REPRESENTATION DATED 13-03-14 SUBMITTED TO THE DISTRICT COLLECTOR WITH ENGLISH TRANSLATION.

EXHIBIT P3- LETTER DATED 29-04-2014 OF THE 3RD RESPONDENT TO THE 4TH RESPONDENT WITH ENGLISH TRANSLATION.

EXHIBIT P4- LETTER DATED 17-05-2014 OF THE VILLAGE OFFICER, PARATHODE WITH ENGLISH TRANSLATION.

RESPONDENT(S)' EXHIBITS NIL

EXT.R4(a): TRUE COPY OF THE NO OBJECTION CERTIFICATE DATED 15.7.2013 FROM THE NEDUMKANDAM GRAMA PANCHAYAT FOR THE INSTALLATION OF WIND MILL.

EXT.R4(b): TRUE COPY OF THE BUILDING PERMIT DATED 12.3.2014 FROM THE NEDUMKANDAM GRAMA PACHAYATH.

EXT.R4(c): TRUE COPY OF THE DEVELOPMENT PERMIT DATED 12.03.2014 FROM THE NEDUMKANDAM GRAMA PANCHAYTH.

EXT.R4(d): TRUE COPY OF THE PROCEEDINGS DATED 4.12.2013 ISSUED BY THE DIRECTOR OF ANERT.

EXT.R4(e): TRUE COPY OF THE PROCEEDINGS DT 27.8.2014 ISSUED BY THE DIRECTOR OF ANERT.

//True Copy//

PS to Judge

Rp

ASHOK BHUSHAN, C.J.
&
A.M. SHAFFIQUE, J.
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W.P. (C) No. 14740 of 2014
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Dated this, the 13th day of August, 2015

J U D G M E N T

Shaffique, J.

Petitioner has filed this writ petition in the form of a Public Interest Litigation *inter alia* seeking the following reliefs;

1. “ Issue a writ of mandamus or any other writ or order commanding the respondents 1 to 3 to stop the installation of windmills by the 4th respondent and take appropriate action in accordance with law.
2. Issue a writ of mandamus or any other appropriate order directing the respondents to inspect the windmills project of the 4th respondent at Pushpakandom in Idukki district ad initiate action in accordance with law.
3. Issue a writ of mandamus or any other appropriate order directing the 1st respondent to consider and pass orders on Ext.P2 representation”.

2. Petitioner submits that the 4th respondent, being a private company engaged in money lending and other related activities, has purchased an extent of 1.88 Acres of land in

Sy.No.355/2 of Parathode Village, Udumbanchola Taluk and, in gross violation of the rules relating to installation of wind mills for generation of electricity, 4th respondent is proceeding to erect wind mills in the said area. It is also alleged that the 4th respondent has encroached into the Government property for the installation of wind mill. Petitioner submits that the entire activity is being done without any permission and therefore he has sought for the reliefs as aforesaid.

3. Counter affidavit has been filed by the 4th respondent *inter alia* stating that the wind mill project has been taken up by the 4th respondent based on permission granted by the Agency for Non-conventional Energy and Rural Technology (for short 'ANERT'), a Government of Kerala enterprise. Ext.R4(d) dated 4/12/2013 and Ext.R4(e) dated 27/8/2014 are the orders issued by the ANERT in this regard. The 4th respondent had also obtained necessary no objection certificate from the Nedumkandam Grama Panchayat for installation of the wind mill and Ext.R4(b) is the building permit dated 12/3/2014 and Ext.R4(c) dated 12/3/2014 is the development permit. It is therefore contended that the wind mill is a project undertaken by the 4th respondent with the

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assistance and approval of an expert agency like ANERT, which is a Government of Kerala enterprise and appropriate permissions had already been obtained in the matter. Therefore, there is no basis for the contentions urged on behalf of the petitioner.

4. A statement has been filed by the 1st respondent *inter alia* stating that in the light of the contentions urged on behalf of the 4th respondent, the Tahsildar had visited the site and it is noticed that some puramboke land has been used by the 4th respondent for the formation of a road to the property belonging to them and necessary steps had already been taken against the 4th respondent for surrendering the said area in question.

5. Having regard to the aforesaid factual situation involved in the matter, it is clear that the 4th respondent has started setting up of the wind mill project after getting necessary permission from the competent authorities. As far as the encroachment of puramboke land is concerned, the 4th respondent had used the puramboke land as access to the site belonging to the 4th respondent and to transport the machinery for setting up of the wind mill. Other than that, there is no intention for the 4th respondent to encroach into the Government

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land. Learned counsel for the 4th respondent submits that this aspect has been brought to the notice of the revenue authorities and appropriate steps have already been taken in that regard by them. It is stated that they have no intention to encroach into the Government land and they have utilised only the property belonging to them.

Having regard to the aforesaid factual situation, we do not think that the grievance involved in this Public Interest Litigation survives and accordingly, there being no grounds in the writ petition, the same is dismissed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge