

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No. 15320 of 2015 (L)

PETITIONER :

**M/S. SHINE INDUSTRIES,
KOOVALLOOR.P.O., PALLARIMANGALAM, ERNAKULAM DISTRICT
REPRESENTED BY THE MANAGING PARTNER, ANOOP.T.A.,
AGED 27 YEARS, S/O.ABDUL KHADER.**

**BY ADVS.SRI.C.A.NAVAS
SRI.T.K.SASIKUMAR
SRI.P.A.SHAJI SAMAD
SMT.E.G.AMBILY
SRI.C.J.SOLOMAN**

RESPONDENTS :

- 1. THE SECRETARY
PALLARIMANGALAM GRAMA PANCHAYATH, KOOVALLOOR.P.O.
ERNAKULAM DISTRICT. PIN-686 671.**
- 2. THE PALLARIMANGALAM GRAMA PANCHAYATH
REPRESENTED BY THE SECRETARY, KOOVALLOOR.P.O.,
ERNAKULAM DISTRICT. PIN-686 671.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: **PHOTOSTAT COPY THE SALE DEED NO.1683/2014 OF SRO POTHANIKKAD.**
- P2: **THE PHOTOCOPY OF THE APPLICATION DATED 12.02.2010.**
- P3: **THE PHOTOCOPY OF THE ACKNOWLEDGMENT RECEIPT NO.FC3-982/2010
DATED 09.09.2010.**
- P4: **PHOTOSTAT COPY OF THE VERIFICATION REPORT DATED NIL.**
- P5: **THE PHOTOSTAT COPY OF FIRE NOC NO.A 1153/10 DATED 09.06.2010.**
- P6: **THE PHOTOSTAT COPY OF NOC FROM THE POLLUTION CONTROL BOARD
NO.PCB/EKM/IAE-07/2010 DATED 24.01.2011.**
- P7: **THE PHOTOSTAT COPY OF THE NOC FROM DMO NO.L.DIS(C2)13813/10
DATED 03.01.2011.**
- P8: **THE PHOTOSTAT COPY OF THE BUILDING PERMIT NO.BA.784/10
DATED 14.01.2011.**
- P9: **THE PHOTOSTAT COPY OF THE INSTALLATION PERMIT NO.A2-2816/11
DATED 17.06.2011.**
- P10: **THE PHOTOSTAT COPY OF THE BUILDING TAX RECEIPT NO.48
DATED 18.04.2011.**
- P11: **THE PHOTOCOPY OF THE SSI REGISTRATION CERTIFICATE
DATED 27.08.2014.**
- P12: **THE PHOTOSTAT COPY OF THE ORDER NO.AS 14/LEOYEC/PTCD/14.15
DATED 12.02.2010.**
- P13: **THE PHOTOSTAT COPY OF THE ADVANCE RECEIPT DATED 11.10.2014.**
- P14: **THE PHOTOSTAT COPY OF THE NOTICE NO.B2-619/15 DATED 12.05.2015.**
- P15: **THE PHOTOSTAT COPY OF THE NOTICE NO.B2-619/15 DATED 15.01.2015.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J

WPC No.15320 of 2015

Dated this the 25th day of June, 2015

JUDGMENT

Aggrieved by the inaction on the part of the respondents in granting permission/license to start a plywood unit, the petitioner has come up before this Court.

2. The petitioner is the Managing Partner of M/s Shine Industries, Koovalloor P.O., Ernakulam District. The petitioner purchased a completed plywood unit at Pothanikkad Village set up in a property having an extent of 25.41 Ars (63 cents) during the year 2014 vide Ext.P1 sale deed. The application for establishing a plywood unit was submitted by Mr.Ibrahim, the predecessor in interest. The petitioner obtained Fire NOC, clearance from Pollution Control Board, NOC from DMO, permission for installation of transformer, building permit and SSI registration. As per the approved plan issued by the Panchayat, the predecessor in interest of property completed the

construction of the factory shed and machineries were installed. The Panchayat also collected building tax for a sum of ₹4631/- for the year 2011-2012 for the building constructed as per the plan. The Panchayat has stated in Ext.P14 that there are no houses with 100 metres radius of the unit. It is also stated that required NOC was obtained in the name of one Mr.Ibrahim Packo, the predecessor in interest of the property. But the Panchayat refused the application stating that there is chance of pollution. Earlier, Ext.P15 notice was given to the previous owner for which reply was also given. In the above notice, it is stated that the petitioner is effecting constructions, but, according to the petitioner, the allegation is absolutely false as the petitioner is only changing the machinery. If the petitioner is not permitted to operate the unit, the petitioner would be left in the lurch. It is with this background the petitioner has come up before this Court.

3. Though notice was served on the respondents, they did not turn up.

4. Arguments have been heard.

5. The petitioner has established a plywood unit with the building permit and installation permit issued by the first respondent Panchayat. It is having all statutory clearances for running the industrial unit. The sketch accompanying Ext.P6 shows that there are no residences or dwelling houses near the proposed unit requiring any consent. The District Medical Board also issued NOC for establishing the unit. Accordingly, Ext.P8 building permit was issued for the construction of a plywood unit. It was pointed out that only after the purchase of the unit, the petitioner realised that the unit could not be operated with the existing machineries as they are not capable of running the unit. Therefore, the installed machineries were removed and sold for scrap rate so as to install a modern and balanced machinery. The petitioner alleges that an amount of Rs.5 lakhs was given as advance for the purchase of new machinery. When the petitioner started to replace the machinery, the Panchayat had issued Ext.P14 stop memo. Though the Panchayat in Ext.P14 has admitted that there are no houses within a radius of 100

metres. They would allege that there is a chance of pollution. As rightly submitted by the petitioner, it is for the department and the Pollution Control Board to consider whether the same would cause any pollution. It is evident that they have given a clearance. As the respondent is not at all technically equipped to say the unit would cause pollution or not, the denial of license on such apprehension is untenable.

Therefore, this writ petition is disposed of directing the respondents 1 and 2 to grant license to the petitioner on condition that the petitioner shall comply with the conditions imposed in Ext.P6 by the Kerala State Pollution Control Board while running the unit.

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

CSS/

true copy

P.S.TO JUDGE