

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. 15747 of 2015 (P)

PETITIONER(S):

**P.M. JAWAHAR, JAWAHAR MARITIME CORPORATION,
MECHANICAL & MARINE ENGINEERS, 19/120, PULLARKAT,
N. PARAVUR, ERNAKULAM DISTRICT, PIN-683 513.**

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR.

RESPONDENT(S):

**THE SECRETARY,
CHENDAMANGALAM GRAMA PANCHAYATH,
CHENDAMANGALAM, ERNAKULAM DISTRICT, PIN-683 512.**

BY ADV. SRI.S.SHANAVAS KHAN, SC.

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

rs.

WP(C).No. 15747 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

P1 : COPY OF THE LICENSE NO.A5/5966/07 DATED 01.06.2007.

P2 : COPY OF THE NOTICE NO.A7/3660/15 DATED 20.05.2015.

P3 : COPY OF THE REPRESENTATION DATED 23.05.2015.

P4 : PHOTOGRAPHS OF THE VESSEL TAKEN ON 25.05.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 15747 of 2015

Dated this the 15th day of June, 2015

J U D G M E N T

Under challenge in this writ petition is Ext.P2 stop memo issued by the respondent to the petitioner.

2. The petitioner is the registered owner of a dredger, viz., 'CSD Anjaney'. The petitioner alleges that since certain specifications prescribed by the authorities under the Kerala Inland Vessel Act need to be fulfilled in order to get registration, the vessel has been berthed in a river adjacent to the land of the petitioner at Chendamangalam Village. The said land was purchased for the purpose of berthing the vessel, which comes within the purview of CRZ notification, and construction activities cannot be carried out in the land for the time being; it is alleged. According to him, he has licence for maintenance, repairs, operation of marine vessels dredging, inland water transportation, salvaging and

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sledge removing. The petitioner is aggrieved by the high handed action of the respondent directing to stop maintenance work of the dredger alleging violation of the Kerala Panchayath Raj Act and the Kerala Panchayath Raj Building Rules. According to him, due to abrupt stoppage of maintenance work, the vessel has started to sink and now, the vessel is half sunk in the river. According to the petitioner, if it is sunk, that would be disastrous as the same contains more than 1200 liters of diesel and large quantity of engine oil, gear oil, hydraulic oil and other lubricants. He points out that the river is almost 6 meters deep and only if maintenance work is completed on war footing before the onset of monsoon, the vessel can be shifted from the present site. According to the petitioner, Ext.P2 is issued in violation of the principles of natural justice and the respondent has no authority to issue Ext.P2. Hence, this writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent

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panchayath.

4. It appears from record that Ext.P3 representation submitted by the petitioner is pending before the respondent.

Therefore, the writ petition is disposed of directing the respondent to consider and pass appropriate orders on Ext.P3 de hors Ext.P2, after affording the petitioner an opportunity of being heard, within a period of two weeks from the date of receipt of a copy of this judgment.

The existing state of affairs shall be continued till final orders have been passed on Ext.P3. The petitioner shall ensure that no dredging is conducted between 6 pm and 7 am.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-