

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

WP(C).No. 19640 of 2015 (D)

PETITIONER : -

BOBBY MATHEW, S/O. MATHEW, AGED 44 YEARS,
KEEKOLIL HOUSE, CHEMPILAVUPO, CHERPUNKAL,
KOTTAYAM DISTRICT - 686 584.

BY ADVS. SRI. JAI GEORGE
SMT. DAISY A. PHILIPPOSE

RESPONDENTS :-

1. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM-695 033.
2. THE DEPUTY EXCISE COMMISSIONER, KOTTAYAM.
3. THE CIRCLE INSPECTOR OF EXCISE,
PALA EXCISE RANGE, KOTTAYAM DISTRICT - 686 001.
4. THE SECRETARY, KURAVILANGADU GRAMA PANCHAYATH,
KOTTAYAM DISTRICT - 686 001
(ADDRESS OF THE 4th RESPONDENT IS CORRECTED AS ,

THE SECRETARY, KIDANGOOR GRAMA PANCHAYATH,
AS PER ORDER DATED 13.07.2015 IN I.A. No. 9657/15.
5. DENNY JOSEPH, KOLADY HOUSE,
CHEMPILAVU POST, CHERPUNKAL, KOTTAYAM DISTRICT - 686 584.
6. E.R. MANOJKUMAR, EDACKATTUVAYALIL HOUSE,
PADUVAPOST, KOTTAYAM - 686 002.

R6 BY ADV. SRI. M. G. KARTHIKEYAN
R6 BY ADV. SRI. NIREESH MATHEW
R1, R3 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE MASS PETITION FILED BY THE LOCAL RESIDENTS BEFORE THE 3RD RESPONDENT A/W ENGLISH TRANSLATION.

EXHIBIT P2 : TRUE COPY OF THE QUESTION ALONG WITH THE REPLY LETTER NO.A4-2809/2015 DATED 12.6.2015 ISSUED BY THE 4TH RESPONDENT A/W ENGLISH TRANSLATION.

EXHIBIT P3 : TRUE COPY OF THE DECISION NO.XV(1) TAKEN IN THE MEETING HELD ON 23.6.2015 BY KIDANGOOR GRAMA PANCHAYATH COMMITTEE A/W ENGLISH TRANSLATION.

EXHIBIT P4 : TRUE COPY OF THE LETTER NO.A4-2611/15 DATED 25.6.2015 ISSUED TO THE 3RD RESPONDENT A/W ENGLISH TRANSLATION.

EXHIBIT P5 : COPY OF THE QUESTIONS AND REPLY DATED 19.6.2015 ISSUED BY THE 3rd RESPONDENT UNDER THE RIGHT TO INFORMATION ACT.

RESPONDENTS' EXHIBITS :

EXHIBIT R6(a) : COPY OF THE TODDY SHOP LICENSE IN RESPECT OF T.S.No.24 ISSUED BY THE DEPUTY COMMISSIONER OF EXCISE, KOTTAYAM, DATED 15.5.2015.

EXHIBIT R6(b) : COPY OF THE KERALA PANCHAYATH RAJ (AMENDMENT) BILL 2013.

ANNEXURE R3(a) : COPY OF THE NOTICE WITH ACKNOWLEDGEMENT AND ITS ENGLISH TRANSLATION.

EXHIBIT R1(a) : COPY OF THE PETITION DATED 23.07.2015.

EXHIBIT R1(b) : COPY OF ORDER ISSUED ON 01.08.2015.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 19640 of 2015

Dated this the 04th day of September, 2015

JUDGMENT

In the light of the detailed interim order passed by this Court on 04.08.2015, now all the learned counsel report that the toddy shop earlier being run by the sixth respondent has been closed. According to the learned counsel for the petitioner, nothing survives in the writ petition.

2. The learned counsel for the sixth respondent has, however, submitted that Exhibit R1(a) petition under Rule 11 of the Kerala Abkari Shops Disposal Rules, 2002, is still pending consideration before the first respondent, who should decide the same in accordance with law, of course, after affording an opportunity to all affected persons. As a result, the learned counsel for the sixth respondent seeks a judicial directive to the first respondent to consider Exhibit R1(a) on merits.

3. The learned Government Pleader submits that the first respondent does not have any objection to consider Exhibit R1(a) in accordance with law, after putting all the persons concerned on notice.

4. Given the submission made by the learned counsel for the petitioner that nothing survives in the present writ petition, I am inclined to close the writ petition, as having not survived for further consideration. At any rate, it is made clear that if Exhibit R1(a) is statutorily maintainable, there shall be no hindrance for the first respondent to consider the same on merits, albeit, after putting all the affected persons on notice, including the petitioner in the present writ petition.

With the above observations, the writ petition stands closed.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-