

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 24781 of 2010 (W)

PETITIONER :

**NANDAJAN.T.K
THANDANKATTIL HOUSE, KONOOR,
NALUKETTU P.O., KORATTY, THRISSUR DISTRICT.**

**BY ADVS.DR.V.N.SANKARJEE
SMT.R.UDAYA JYOTHI**

RESPONDENTS :

- 1. KORATTY GRAMA PANCHAYATH
ITS SECRETARY, KORATTY, THRISSUR DISTRICT-680308.**
- 2. THE SECRETARY, KORATTY GRAMA PANCHAYAT,
KORATTY, THRISSUR DISTRICT-680308.**
- 3. ENVIRONMENTAL ENGINEER, KERALA STATE
POLLUTION CONTROL BOARD, DISTRICT OFFICE
POOKUNNAM P.O., THRISSUR DISTRICT-680314.**
- 4. SANIL KUMAR P.R., PROPRIETOR,
AMBAR RUBBER RESOURCES, KONOOR, NALUKETTU P.O.
KORATTY, THRISSUR DISTRICT-680308.**
- 5. BHARATHI RAMAN, THYKOOTTATHIL HOUSE,
KONOOR, NALUKETTU P.O., KORATTY
THRISSUR DISTRICT, 680308.**
- 6. DISTRICT MEDICAL OFFICER, TRICHUR- 680314.**

**R1 & 2 BY ADVS. SRI.SHEEJO CHACKO
SRI.BIJU KURIAKOSE
SRIA.G.UNNIKRISHNAN**

**R3 BY ADV. SRI. M.AJAY, SC,
BY SRI.M.K.CHANDRA MOHANDAS,**

**R4 & R5 BY ADV. SRI.V.M.KRISHNAKUMAR
SMT.P.A.ANITHA**

R6 BY GOVERNMENT PLEADER SRI.E.M. ABDUL KHADIR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE REPRESENTATION DT 1/11/2008 PREFERRED BY THE PETITIONER.**
- P2: COPY OF MASS PETITION DT 21/10/2008 PREFERRED BY THE LOCAL RESIDENTS INCLUDING THIS PETITIONER TO THE RESPONDENTS 1 TO 2.**
- P3: COPY OF REPRESENTATION DT 16/3/2009 PREFERRED BY THE PETITIONER.**
- P4: COPY OF THE COMMUNICATION RECEIVED AS PER THE RIGHT OF INFORMATION ACT.**
- P5: COPY OF THE COMMUNICATION AND NOTICE DT 12/10/2009.**
- P6: COPY OF THE LICENCE ISSUED TO THE FOURTH RESPONDENT BY THE R1/PANCHAYATH**
- P6(a): CONDITIONS BEHIND THE LICENCE ISSUED BY THE PANCHAYATH.**
- P7: COPY OF THE LICENCE ISSUED BY THE PANCHAYATH TO THE R4.**
- P8: COPY OF THE ORDER DT 5/12/2010 ISSUED BY THE R1 TOGETHER WITH RESOLUTION NO. 3 DT 19/6/2012 AND COMMUNICATION DT 1/1/2010 TO THE PETITIONER.**
- P9: COPY OF THE JUDGMENT DT 23/2/2012 IN OS NO. 288/2010 OF THE MUNSIF'S COURT, CHALAKUDY.**

RESPONDENT'S EXHIBITS :

- EXT.R4(a): COPY OF THE LICENSE DT 17/5/2010 ISSUED BY KORATTY GRAMPANCHAYAT.**
- EXT.R4(b): COPY OF THE CONSENT ISSUED BY THE POLLUTION CONTROL BOARD DT 21/2/2009.**
- EXT.R4(c): COPY OF THE CONSENT LETTER ISSUED BY GOPI.**
- EXT.R4(d): COPY OF THE CONSENT LETTER ISSUED BY PRAKASAN.**
- EXT.R4(e): COPY OF CONSENT LETTER ISSUED BY VELAYUDHAN.**
- EXT.R4(f): COPY OF CONSENT LETTER ISSUED BY KRISHNANKUTTY.**
- EXT.R4(g): COPY OF THE CONSENT LETTER ISSUED BY BALAN.**
- EXT.R4(h): COPY OF CONSENT LETTER ISSUED BY RAJAGOPAL.**
- EXT.R4(i): COPY OF THE PROCEEDINGS OF THE DEPARTMENT OF INDUSTRIES, DT 20/9/2008.**

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- EXT.R4(j): COPY OF THE PLAINT INOS NO. 28/2010 FILED BEFORE THE MUNSIF COURT CHALAKUDY.**
- EXT.R4(k): COPY OF THE CONSENT NO.PCB/DO/TSR/RI/ICO/594/2012 DT 4/8/2012 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD.**
- EXT.R3(a): COPY OF CONSENT RELEVANT PORTION TO OPERATE NO. POLLUTION CONTROL BOARD/DO/TSR/F/IC/594/2008.**
- EXT.R3(b): COPY OF CONSENT VARIATION ORDER NO. POLLUTION CONTROL BOARD/TSR/IC/1294/2008 DT 24/3/2009.**
- EXT.R3(c): COPY OF NOTICE NO. POLLUTION CONTROL BOARD / TSR/IC/1294/2008 DT 2/2/2010.**
- EXT.R1(a): COPY OF THE RESOLUTION DT 13/01/2006 BEARING NO. 5/(1).**
- EXT.R1(b): COPY OF NO OBJECTION CERTIFICATE ISSUED BY THE DISTRICT MEDICAL OFFICER, THRISSUR DT 9/3/2006.**
- EXT.R1(c): COPY OF THE LETTER RECEIVED BY THE R1 FROM R4.**

//TRUE COPY//

P.A. TO JUDGE

bp

A.M.SHAFIQUE, J

W.P.C.No.24781 of 2010

Dated this the 9th day of November 2015

J U D G M E N T

This writ petition has been filed by a private person, who is a neighbour of the 4th respondent, alleging that the 4th respondent is running an industrial unit in the name and style of 'Ambar Rubber Resources' without obtaining proper consent/permission from the competent authorities and that pollution is being caused in the neighbouring locality.

2. It is submitted by the learned counsel for the 3rd respondent that the unit was inspected on 23/03/2009 and it was found to be functioning. Necessary directions were given to the unit to stop the designer tile production as per Exts.R3(c) and R3(d). Subsequently, consent was given for operating the unit and as matters stand now, there is no consent to operate the unit.

4. Counter affidavit has been filed by respondents 1 and 2 in which it is inter alia stated that the Panchayat had also issued a notice on 05/02/2010 notifying the illegal construction and the 4th respondent was asked to demolish the same. Further, it was stated that, after receiving a complaint from the Action Council,

show cause notice was issued to the 4th respondent to explain as to why action should not be taken under Section 31 of the Kerala Panchayat Raj Act.

5. The learned counsel for the petitioner submits that, in so far as the consent for operation of the unit is not in existence, the 4th respondent is not entitled to run the unit. The consent to operate has been extended only upto 31/12/2014.

6. Having regard to the fact that currently there is no consent to operate, it is apparent that the 4th respondent will not be in a position to operate the unit. Under such circumstances, I do not think that any further direction is required to be passed in this case. I only observe that the 1st respondent Panchayat shall ensure that the unit does not function without having proper licence/permission from the local authorities as well as from other competent authorities.

With the above observation, this writ petition is disposed of.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

