

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

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

WP(C).No. 21340 of 2015 (N)

PETITIONERS:

1. **RADHAKRISHNAN NAIR AGED 62 YEARS**
S/O CHELLAPPAN PILLAI, ASARAZHIKATH VEEDU
OZHUKUPURA JUNCTION, THAMARAKKUDY, MYLOM PO
KOTTARAKKARA TALUK, KOLLAM DISTRICT
2. **SREELATHA, AGED 48 YEARS**
D/O PADMAVATHI AMMA, SREE GOKULAM, OZHUKUPURA JUNCTION
THAMARAKKUDY, MYLOM PO, KOTTARAKKARA TALUK
KOLKLAM DISTRICT
3. **SIVAKUMAR, AGED 37 YEARS**
S/O PARAMESWARAN PILLAI, R.S. BHAVAN
OZHUKUPURA JUNCTION, THAMARAKKUDY, MYLOM PO
KOTTARAKKARA TALUK, KOLLAM DISTRICT

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENTS:

1. **THE DISTRICT COLLECTOR**
COLLECTORATE, KOLLAM
2. **THE DIRECTOR**
GROUND WATER DEPARTMENT, JALAVINJAN BHAVAN, KAVADIAR
THIRUVANANTHAPURAM
3. **THE DISTRICT OFFICER**
GROUND WATER DEPARTMENT, KOLLAM-691 009
4. **THE VILLAGE OFFICER**
MYLOM VILLAGE, KOTTARAKARA TALUK, KOLLAM DISTRICT
5. **SANTHOSH KUMAR M**
ASWATHY, OZHUKUPURA JUNCTION, THAMARAKKUDY P.O,
KOTTARAKKARA TALUK, KOLKLAM DISTRICT

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R1 - R4 BY GOVERNMENT PLEADER SRI. S. JAMAL

R5 BY ADVS. SRI.M.V.THAMBAN

SRI.R.REJI

SMT.THARA THAMBAN

SRI.B.BIPIN

SRI.ARUN BOSE

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

APPENDIX

PETITIONERS' EXHIBITS

- EXT.P1: TRUE COPY OF THE COMPLAINT DT. 20/4/15 SUBMITTED BY THE PETITIONER AND OTHER NEIGHBOURS
- EXT.P2: TRUE COPY OF THE FEASIBILITY REPORT DT. 24/4/15 ISSUED BY THE 2ND RESPONDENT
- EXT.P3: TRUE COPY OF COMPLAINT DT. 28/4/15 SUBMITTED BY THE PETITIONER AND OTHER NEIGHBOURS
- EXT.P4: TRUE COPY OF THE REPORT DT. 30/4/15 OF THE VILLAGE OFFICER , MYLOM
- EXT.P5: TRUE COPY OF THE GRIEVANCE PETITION DT. 2/5/15 SUBMITTED TO THE 2ND RESPONDENT
- EXT.P6: TRUE COPY OF THE ORDER DT. 6/7/15 PASSED BY THE DISTRICT COLLECTOR
- EXT.P7: TRUE COPY OF THE LETTER DT. 9/7/15 RECEIVED FROM THE 1ST RESPONDENT , STAYING THE EXECUTION OF THE ORDER

RESPONDENTS' EXHIBITS

- EXT.R5(A) TRUE COPY OF THE POWER OF ATTORNEY DATED 04.05.2015
- EXT.R5(B) TRUE COPY OF THE PERMIT DT. 04.05.2015 ISSUED FROM MYLOM PANCHAYATH TO THE 5TH RESPONDENT
- EXT.R5(C) TRUE COPY OF THE LETTER NO.G.K.T/998/15 DT.19.05.2015 ISSUED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 21340 of 2015 (N)

Dated this the 13th day of August, 2015

J U D G M E N T

The petitioners are aggrieved with the fact that the petitioners' complaint at Ext.P1 has been rejected by the District Collector at Ext.P6.

2. The complaint of the petitioners was against the digging of a bore well by the 5th respondent herein. The 5th respondent had obtained Feasibility Report for digging the bore well which is produced at Ext.P2. However, despite such Feasibility Report, some of the residents of the locality are said to have objected to the same, which objections are considered by the District Collector in Ext.P6.

3. The learned counsel for the petitioner submits that Ext.P6 was without hearing the petitioners and that there is no permission granted for digging the bore well. The learned counsel appearing for the 5th respondent, however, would contend, on the basis of the provisions of

Kerala Ground Water (Control and Regulation) Act, 2002 (for brevity 'Act of 2002') and the Rules of 2004, that no permission, in fact, is required since the area in which the 5th respondent resides is not a notified area.

4. The Act of 2002 speaks of grant of permit to extract and use ground water in Section 7. However, Section 6 specifically confers the power on the Government, on the recommendation of the authority, to notify areas for the control and regulation of ground water development. Subsection (1) of Section 7 speaks of grant of permit to extract and use ground water only if the same is proposed in a notified area.

5. The petitioner is said to have approached the District Officer, Ground Water Department, the 3rd respondent for the report, only since there were objections from the nearby residents of the property. The petitioners' property is situated in a rocky hill and the same according to the petitioner would not affect the ground water level of the area. The property is also situated in an area which is

notified under the Act of 2002.

6. In any event, the District Collector has considered the matter comprehensively. Though, the petitioners rely on Ext.P4 report of the Village Officer, which was in their favour, the District Collector chose to place reliance on the report of the Ground Water Department, which is only proper since the latter is the authority competent to report on the depletion of ground water. After a detailed consideration of the report, the District Collector had directed that bore well would be dug only under the supervision of the Ground Water Department and in such circumstance, this Court does not find any infirmity in Ext.P6 order.

Writ petition would stand dismissed. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE