

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C) .No. 23476 of 2015 (H)

PETITIONER(S) :

C.C.VARGHESE,
S/O.C.V.CHAKKU, CHAKKIATHMOODA, CHULLI P.O.,
KUTTIPPARA, ANGAMALY, ERNAKULAM.

BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)

RESPONDENT(S) :

1. THE MALAYATTOOR NEELESWARAM GRAMA PANCHAYAT,
NEELASWARAM JUNCTION, ERNAKULAM,
REPRESENTED BY ITS SECRETARY, PIN: 683 587.
2. THE SECRETARY,
MALAYATTOOR NEELESWARAM GRAMA PANCHAYAT,
NEELESWARAM JUNCTION,
ERNAKULAM, PIN: 683 587.

R1,R2 BY ADV. DR.K.P.SATHEESAN (SR.)
R1,R2 BY ADV. SRI.P.MOHANDAS (ERNAKULAM)
R1,R2 BY ADV. SRI.ANOOP.V.NAIR
R1,R2 BY ADV. SRI.S.VIBHEESHANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: TRUE COPY OF NOC DT. 29/7/2011 ISSUED BY THE REVENUE AUTHORITIES TO THE PETITIONER.
- EXT. P2: TRUE COPY OF QUARRYING PERMIT DT. 30/9/2013 ISSUED TO THE PETITIONER.
- EXT. P3: TRUE COPY OF EXPLOSIVE LICENSE DT. 26/12/2014 ISSUED TO THE PETITIONER.
- EXT. P4: TRUE COPY OF CONSENT DT. 30/6/2015 ISSUED BY THE POLLUTION CONTROL BOARD.
- EXT. P5: TRUE COPY OF LETTER OF INTENT DT. 29/5/2015 ISSUED BY THE GEOLOGIST.
- EXT. P6: TRUE COPY OF APPLICATION FOR ESTABLISHING THE UNIT.
- EXT. P7: TRUE COPY OF REPORT SUBMITTED BY THE 2ND RESPONDENT.
- EXT. P8: TRUE COPY OF DECISION BEARING NO.VI, DATED 15/7/2015 TAKEN BY THE 1ST RESPONDENT.
- EXT. P9: TRUE COPY OF REPORT OF THE VILLAGE OFFICER SHOWING THE DISTANCE BETWEEN THE SITE AND THE CANAL.
- EXT. P10: TRUE COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT THAT THERE IS NO COMPLAINTS AGAINST THE PROPOSED QUARRY.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J.

=====

W.P(C) No.23476 of 2015

=====

Dated this the 11th day of August, 2015

JUDGMENT

The petitioner is aggrieved by the non-consideration of the application for establishment permit submitted by him before the respondent panchayat.

2. The petitioner is a grantee of Ext.P1 NOC from the revenue authorities for conducting quarrying operations in an extent of 70.48 Ares of puramboke land comprised in Block No.22 in R.S No.284 of Malayattoor village, Aluva taluk. The petitioner alleges that he was issued with consent to operate by the Pollution Control Board, explosive licence and the letter of intent by the Mining and Geology Department.

3. The petitioner filed an application for establishment permit before the first respondent. The second respondent has conducted enquiry and recommended grant of establishment permit vide Ext.P7.

However, the first respondent has rejected the application for the reason that there are general complaints among the public against the conducting of quarrying operations and an irrigation canal of Edamalayar is going through that area. According to the petitioner, the said grounds are absolutely incorrect, untenable and illegal. It is with this background, the petitioner has approached this Court.

4. I have heard the learned counsel for the petitioner and the learned standing counsel for the respondent panchayat.

5. The learned counsel for the petitioner would submit that the petitioner was granted with a letter of intent from the Mining and Geology Department and the same was issued after inspecting the proposed site and satisfying that the said site is feasible for conducting quarrying operations. According to the learned counsel, the so-called Edamalayar irrigation canal is 200 metres away from the proposed site and the distance as far as the canals, bridges and other constructions are concerned, is only 100 metres. According to

him, there is no law which stipulates that no quarrying can be conducted even if the distance between the site and an irrigation canal is above 200 metres.

The first respondent has not considered the application till date. Therefore, the writ petition is disposed of directing the respondent panchayat to consider the application for permit submitted by the petitioner in the light of Exts.P1, P4, P5, P7 and P8 and after site inspection, if necessary, within three weeks from the date of receipt of a copy of this judgment. It is open to the petitioner to make himself available before the respondent panchayat, at any rate, within a period of one week.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj