

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C) .No. 23647 of 2015 (E)

PETITIONER(S) :

M/S. RAY ENGINEERING LIMITED,
REGD. OFFICE : PLOT NO.2, RAY COMPOUND,
OPPOSITE ITI, MARKET GATE, POWAI, MUMBAI,
MAHARASHTRA, PIN-400 076, REGIONAL OFFICE: RAY BHAVAN,
THYKKOODAM, NH BY PASS, COCHIN,
REPRESENTED BY ITS MANAGER MR.E.A.VARGHESE, EARALLIL,
PERUMBADANNA, PARAVUR TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.P.M.POULOSE.

RESPONDENT(S) :

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1. NEDUMBASSERY GRAMA PANCHAYAT,
NEDUMBASSERY GRAMA PANCHAYAT OFFICE, KARIYAD,
MEKKAD P.O., PIN-683 589, ERNAKULAM DISTRICT,
REPRESENTED BY ITS SECRETARY.
 2. THE SECRETARY
NEDUMBASSERY GRAMA PANCHAYAT, KARIYAD, MEKKAD P.O.,
PIN-683 589, ERNAKULAM DISTRICT.

BY SRI.GEORGE SEBASTIAN, SC ,NEDUMBASSERI PANCHAYAT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1 : TRUE COPY OF THE LETTER NO.CIAL/CIVIL/445 DATED 5-6-2015.

EXT. P2 : TRUE COPY OF THE AGREEMENT DATED 11TH JUNE 2015 EXECUTED BY PETITIONER WITH BINO JOHN.

EXT. P3 : TRUE COPY OF THE AGREEMENT DATED 11TH JUNE 2015 EXECUTED BY PETITIONER WITH JESHY.

EXT. P4 : TRUE COPY OF THE APPLICATION DATED 24-6-2015 SUBMITTED BY PETITIONER.

EXT. P5 : TRUE COPY OF THE PLAN SUBMITTED ALONG WITH EXT P4.

EXT. P6 : TRUE COPY OF THE LETTER NO.A3-4521/2015 DATED 7-7-2015 OF THE 2ND RESPONDENT.

EXT. P7 : PHOTOGRAPHS.

EXT. P8 : TRUE COPY OF THE DATA BANK PREPARED UNDER THE CONSERVATION OF PADDY LAND AND WETLAND ACT 2008.

EXT. P9 : TRUE COPY OF THE RECENT ELECTRICITY BILL DATED 6-5-2015.

EXT. P10: TRUE COPY OF THE RECEIPT SHOWING PAYMENTS OF BILL DATED 10-6-2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J.

W.P.(C)No.23647 of 2015

Dated this the 12th day of August, 2015.

J U D G M E N T

The petitioner seeks a direction to permit the petitioner to complete the construction of sheds shown in Ext.P5 in the lands covered by Exts.P2 and P3 panchayat permit.

2. The petitioner was awarded the work of 'flooring and toilet finishing works for new international Terminal Building by the CIAL, after having accepted the tender submitted by the petitioner in response to a notice inviting tenders. The work involves flooring with varieties of tiles and finishing works of toilets. The contract period for the work is 8 months reckoned from the date of handing over the site. As per the contract agreement, the petitioner has to produce the required flooring and finishing materials necessary for the work. The petitioner wants sufficient area

for storing materials and accommodating sufficient watch and ward. The petitioner for this purpose took on rent 2 plots, one having 22 cents and another having 48 cents. The petitioner requires some sheds purely temporary for the purpose of accommodating the watch and ward. The total area required for sheds is only 80 M2 which is 1.90 cent. The petitioner submits that the construction of temporary sheds are not of any permanent nature and the same will be dismantled on completion of the contract work. As per Rule 10 of the Kerala Panchayat Building Rule of 2011, no permit is necessary for huts and providing or removing partitions other than load bearing walls. According to the petitioner, the sheds he wants to construct are having the status of huts. Hence in view of Rule 10 of the said Rules, no permit of the panchayat is necessary. The landlords named Bino John and Jeshy had informed the petitioner that the land was converted as dry land 20 years ago and ever since it is dry land. It is submitted that there are grown up trees in the

land. In Ext.P8 Data Bank prepared under the Conservation of Paddy Land and Wetland Act 2008, the land is not shown as paddy land. According to him, in the land taken on rent, there was already a RCC roof slab structure having building No.IX-473-E allotted by the 1st respondent panchayat which is a permanent structure. In this structure, the Kerala State Electricity Board has given industrial electricity connection under LT-7A vide Consumer No.1155762023745 in the year 2006. The petitioner alleges that vide Ext.P6, the 2nd respondent has stated that as per BTR, the land is 'nilam', hence the petitioner's application cannot be considered. It is with this backdrop, the petitioner has approached this Court.

3. I have heard the learned counsel for the petitioner and the learned Standing counsel for the respondent Panchayat.

4. The learned counsel for the petitioner submitted that the petitioner has sought permission to construct a

temporary shed that too for a period of 10 months. The learned standing counsel on instruction submitted that if the petitioner undertakes that the temporary structure would be demolished by him after lapse of 10 months from the date of construction, there may not be any objection from the side of the respondent panchayat in granting permit. Recording the submission, permission is granted. The petitioner is permitted to construct a temporary shed under the supervision of the respondent panchayat and the petitioner shall demolish the shed within 10 months from a date fixed by the respondent panchayat.

Sd/-
A.V.RAMAKRISHNA PILLAI,
Judge.

ami/

//True copy//

P.A. to Judge