

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).No. 28042 of 2014 (E)

PETITIONER(S) :

C.K. BABU,
AGED 50 YEARS, S/O.KUNHUKUNHU, BUSINESSMAN,
RESIDING AT CHENGAMALA HOUSE,
PALLIKAVALA, KARUVANCHAL,
VELLAD.P.O.,
TALIPARAMBA, KANNUR DISTRICT-670 571.

BY ADV. SRI.R.SURENDRAN

RESPONDENT(S) :

1. NADUVIL GRAMA PANCHAYAT,
REPRESENTED BY THE SECRETARY,
NADUVIL GRAMA PANCHAYAT, NADUVIL,
TALIPARAMBA TALUK,
KANNUR DISTRICT - 670 582.
2. CHANGAMKARIYIL PUSHPA,
AGED 50 YEARS, W/O.SCARIA, RESIDING AT MANNA,
TALIPARAMBA.P.O.,
KANNUR DISTRICT.

R2 BY ADV. SRI.M.SASINDRAN,
R1 BY ADV. SRI.K.M.MOHAMMED KUNHI,
R1 BY ADV. SMT.RUKHIYABI MOHD KUNHI.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1- TRUE COPY OF D & O LICENCE DATED 19.10.2012 ISSUED BY THE
FIRST RESPONDENT IN FAVOUR OF THE PETITIONER.

EXT. P2- TRUE COPY OF APPLICATION DATED 11.9.2014 FILED BY THE
PETITIONER BEFORE THE FIRST RESPONDENT.

EXT. P3- TRUE COPY OF REGISTRATION CERTIFICATE ISSUED BY THE FOOD
SAFETY OFFICER, TALIPARAMBA CIRCLE TO THE PETITIONER.

EXT. P4- TRUE COPY OF LETTER DATED 12.9.2014, ISSUED BY THE FIRST
RESPONDENT TO THE PETITIONER.

EXT. P5- TRUE COPY OF JUDGMENT DATED 16.7.2010 IN W.P[C]NO.14261
OF 2010 OF THIS HONOURABLE COURT.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J

WPC No.28042 of 2014

Dated this the 8th day of June, 2015

JUDGMENT

The petitioner is aggrieved by the insistence of the first respondent Panchayat for consent letter from the second respondent to renew the license of the petitioner's bakery business.

2. According to the petitioner, he has been conducting bakery business in a rented building now belonging to the second respondent, her husband and children. They purchased the property in 2013 from the earlier owner Sudhakaran. The petitioner has been occupying the building under the earlier landlord Mathew and thereafter under Sudhakaran and now under the second respondent and her family; it is alleged.

3. The second respondent filed an objection before the Panchayat stating that no license should be issued to the petitioner. She also issued lawyer notice demanding surrender and thereafter filed RCP No.51 of 2014 before

the Rent Controller, Taliparamba. When the petitioner applied for license vide Ext.P2, the first respondent insisted for production of consent letter from the second respondent. There is no such statutory requirement in the Panchayat Raj Act or the Rules requiring production of consent letter from the landlord for grant of license; it is alleged.

4. This Court in **Marimuthu v Director General of Police** (1999(3) KLT 622) and in Ext.P5 judgment had held that production of consent letter should not be insisted when the tenancy is continued as a statutory tenant. It is with this background, the petitioner has come up before this Court.

5. I have heard the learned counsel for the petitioner, the learned counsel for the respondent Panchayat and the learned counsel for the second respondent.

As the petitioner was the tenant of the original owner who had already granted consent to the petitioner to conduct bakery business, a further consent from the second respondent is not require as there is no change in

the business. Therefore, this writ petition is disposed of directing the first respondent to renew the license of the petitioner to conduct bakery business which was being conducted by the petitioner on the strength of the consent which he had obtained from the previous owner of the property from whom the second respondent has purchased the same.

sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

CSS/

true copy

P.S.TO JUDGE