

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 33182 of 2011 (W)

PETITIONER:

**ALUNGAL MUHAMMED, S/O.KAMMUKUTTY,
AGED 63 YEARS, ALUNGAL HOUSE, KUNDIL,
KOTTAPARAMBU, KONDOTTY, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
MALAPPURAM, PIN - 676 505.**
- 2. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, MALAPPURAM, PIN- 676 505.**
- 3. THE DISTRICT MEDICAL OFFICER,
MANJERI, MALAPPURAM DISTRICT, PIN - 676 121.**
- 4. THE KONDOTTY GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, KONDOTTY,
MALAPPURAM DISTRICT, PIN - 673 638.**
- 5. THE SUB INSPECTOR OF POLICE,
KONDOTTY POLICE STATION,
MALAPPURAM DISTRICT, PIN - 673 638.**
- 6. ASHARAF, S/O. POCKER, ADAMPULAN HOUSE,
KUNDIL, CALICUT AIRPORT.P.O, KONDOTTY,
MALAPPURAM DISTRICT, PIN - 673 638.**

**R1, R3 & R5 BY GOVERNMENT PLEADER SRI.P.V.ELIAS
R2 BY ADV. SRI. M.AJAY, SC,
BY SRI.M.K.CHANDRA MOHANDAS,SC
R4 BY ADV. SRI.P.VENUGOPAL (1086/92)
R6 BY ADV. SRI.K.M.SATHYANATHA MENON**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 :** TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE HON'BLE CHIEF MINISTER, KERALA DATED 9.11.2011.
- EXHIBIT P2 :** TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 9.11.2011 BEFORE THE CHIEF MINISTER OF KERALA.
- EXHIBIT P3 :** TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 15.9.2011 BEFORE THE CHIEF MINISTER OF KERALA.
- EXHIBIT P4 :** TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE FIRST RESPONDENT DATED 17.9.2011.
- EXHIBIT P5 :** TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE 4TH RESPONDENT DATED 16.9.2011.
- EXHIBIT P6 :** TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE MEDICAL OFFICER, P.H.C. CENTER, KONDOTTY DATED 21.9.2011.
- EXHIBIT P7 :** TRUE COPY OF THE REPLY GIVEN BY THE 4TH RESPONDENT DATED 11.11.2011.

RESPONDENT'S EXHIBITS:

- EXT.R2(1) :** TRUE COPY OF THE ANALYSIS REPORT DATED 29.12.11.
- EXT.R2(2) :** TRUE COPY OF THE LETTER NO.PCB/MLPM/COM/16/11 DATED 13.1.12.
- EXT.R2(3) :** TRUE COPY OF THE LETTER SENT TO THE SECRETARY, KONDOTTY GRAMA PANCHAYAT, MALAPPURAM DATED 13.1.12.
- EXT.R4(A) :** TRUE COPY OF THE NOTICE ISSUED TO THE SIXTH RESPONDENT DATED 2.8.2011.
- EXT.R4(B) :** TRUE COPY OF THE EXPLANATION/REPLY SUBMITTED BY THE SIXTH RESPONDENT DATED 25.8.2011.
- EXT.R4(C) :** TRUE COPY OF THE RESOLUTION NO.XVII(5) DATED 22.9.2011 ADOPTED BY THE PANCHAYAT BOARD.
- EXT.R4(D) :** COPY OF THE 'REPORT ON ANALYSIS OF WATER' SUBMITTED BY THE PETITIONER TO THE PANCHAYAT.

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- EXT.R4(E) :** TRUE COPY OF THE REPORT OF THE HEALTH INSPECTOR ALONG WITH THE LETTER OF THE MEDICAL OFFICER, PHC, KONDOTTY.
- EXT.R4(F) :** TRUE COPY OF THE 'STOP MEMO' DATED 9.1.2012 ISSUED TO THE SIXTH RESPONDENT.
- EXT.R4(G) :** TRUE COPY OF THE REPLY SUBMITTED BY THE SIXTH RESPONDENT DATED 18.1.2012.
- EXT.R4(H) :** TRUE COPY OF THE LETTER DATED 18.1.2012 SENT TO THE ENVIRONMENTAL ENGINEER, POLLUTION CONTROL BOARD, MALAPPURAM.

/TRUE COPY/

P.S. TO JUDGE

mbr/

C.K.ABDUL REHIM,J.

WP(C).NO. 33182 of 2011

Dated this the 13th day of January, 2015

JUDGMENT

Allegation in the writ petition is that, the 6th respondent is conducting a slaughter house without licence in a property situated nearby to the residential compound of the petitioner. It is alleged that not less than 3 animals are slaughtering in the site without taking any guard or precaution and the entire waste of the slaughtering is put to a bio-gas plant established in the property. A dumping pit and a pit collecting waste water were also constructed in the property within a short distance from the petitioner's well, which is being polluted due to sweepage, is the allegation. Complaint is that the nuisance created in this regard, eventhough was brought to the notice of various authorities through representations, no positive action was taken to stop such illegal activities. It is pointed out that, in Ext.P7 reply issued by the 4th respondent Panchayat it is conceded that the 6th respondent has not obtained any licence for conducting such activities.

2. In the counter affidavit filed by the 4th respondent it is mentioned that the Panchayat had taken prompt action in response to the representation and Ext.R4(a) notice was issued to the 6th respondent directing not to operate the bio-gas plant by depositing objectionable articles. It is stated that subsequently, based on another representation, the Panchayat had considered the matter in its meeting held on 22.9.2011 and it was decided to direct the 6th respondent to stop functioning of the bio-gas plant and to call for a report from the Medical Officer, CHC, Kondotty. Ext.R4(c) is the decision of the Panchayat and Ext.R4(d) is the report of analysis obtained with respect to the well water. It is stated that in view of the report received from the Health authorities, no further action was taken by the Panchayat in the matter. The counter affidavit further says that on the basis of the enquiry conducted by Secretary of the Panchayat a stop memo was issued to the 6th respondent on 9.1.2012 as per Ext.R4(f) ,directing him to stop the illegal slaughtering of animals, without obtaining license from the Panchayat and also directing to abate the nuisance being caused by depositing waste of the animals from the slaughtering place to the bio-gas plant. It is pointed out that, the 6th respondent, on receipt of the stop memo had submitted Ext.R4(g) letter stating that he has stopped

functioning of the slaughtering house and had undertaken to abstain from depositing objectionable articles in the bio gas plant.

3. A report was submitted by the 2nd respondent pursuant to an inspection conducted at the premise on 21.12.2011. It was noticed that the 6th respondent is unauthorisedly conducting slaughtering of animals in his brother's residence, around 40 meters away from the petitioner's residence, on the opposite side of the Kondotty - Calicut Airport road. It was observed that, disposal of the animal waste is done by providing arrangements at a safe distance from the petitioner's house and from the well. However it is observed that the plant is being fed with slaughter waste and garbage, and cooking gas generated is used for domestic purpose by the family of the 6th respondent. It is observed in the report that, the 6th respondent does not have any valid consent from the Pollution Control Board or licence obtained from the Grama Panchayat for slaughtering. Therefore the 6th respondent was directed to stop all activities of the slaughtering house, by issuing notice as per Ext.R2(2).

4. When the writ petition was considered on 1.2.2012 this court had recorded submissions made on behalf of the 4th respondent Panchayat that, the 6th respondent had stopped slaughtering in the objectionable site. But the petitioner

complained that animal waste is still being dumped in the property and also fed in the bio-gas plant. However such allegation was disputed by the counsel appearing for the 4th respondent. This court directed the 4th respondent to see that the stop memo is strictly enforced and that animal waste is not fed into the bio-gas plant. Learned counsel appearing for the petitioner contended that, despite the interim order, animal waste is being fed into the bio-gas plant and nuisance is being caused even now. Hence it is requested that necessary directions may be issued from this court.

5. Considering the factual situation enumerated as above it is evident that the 6th respondent has not obtained any permission or licence from respondents 2 to 4 for conduct of animals slaughtering in the property in question. It is evident from Ext.R4(g) letter issued by the 6th respondent to the 4th respondent Panchayat that he had stopped the illegal activity of slaughtering, pursuant to the memo issued in this regard. This court makes it clear that the 6th respondent shall not conduct slaughtering of animals in the property, unless it is permitted by the competent authorities thorough requisite consent, permission and licence. With respect to operation of the bio-gas plant it is evident that the 4th respondent Panchayat had issued notice and

memos to the 6th respondent restraining him from dumping animal waste in the property or feeding the same into the plant. It is also mentioned in Ext.R4(g) letter issued by the 6th respondent that he is undertaking that he will not keep such waste in the property or fed the same into the bio-gas plant.

6. It is evident that the Panchayat had taken necessary steps to abate the alleged nuisance in this regard. It is for the 4th respondent Panchayat to see that such nuisance is not continued and that the 6th respondent is not violating the undertaking made before this court. Hence the writ petition is hereby disposed of by issuing direction to the 4th respondent to see that the stop memo issued with respect to dumping and feeding of animal waste in the property and to the bio-gas plant is strictly adhered by the 6th respondent and that no nuisance is caused to the petitioner in this regard.

7. Needless to observe that if any complaint is received in this regard the 4th respondent shall take immediate steps to prevent such unlawful activities, if necessary by seeking police assistance.

C.K.ABDUL REHIM, JUDGE

Pmn/

