

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 34866 of 2011 (G)

PETITIONERS : -

1. CHERUVANNOOR SREE SUBRAMONIASWAMI KSHETHRA
SAMRAKSHANA SAMITHI, REG.NO.395/78,
CHERUVANNOOR, P.O FEROKE, KOZHIKODE 673 631,
REP.BY ITS DEVASWOM IN-CHARGE CUM TREASURER
SRI.V. SIVARAMAKRISHNAN, S/O.S.VENKITARAMA IYYER,
'VENKIT NIVAS', CHERUVANNOOR AMSOM DESOM,
P.O. FEROKE, KOZHIKODE - 673 631.
2. K.YOGESH, S/O.KESAVAN, MERALAPPU HOUSE,
PROPRIETOR, MEENA INDUSTRY, CHERUVANNOOR AMSOM
DESOM, P.O FEROKE, KOZHIKODE 673 631.
3. P.ABDUL AZEES, PRESIDENT, MASJIDUSALAM PALLI,
NEAR KOYASH HOSPITAL, Dr. T.P ROAD,
CHERUVANNOOR, P.O. FEROKE, KOZHIKODE 673 631.

BY ADV.SRI.P.VKUNHIKRISHNAN

RESPONDENTS: -

1. KERALA STATE BEVERAGES (MANUFACTURING AND MARKETING)
CORPORATION LTD, SASTHA KRIPA OFFICE COMPLEX,
SASTHAMANGALAM, THIRUVANANTHAPURAM - 695010.
2. ASSISTANT EXCISE COMMISSIONER, KOZHIKODE 673 030.
3. EXCISE COMMISSIONER, EXCISE COMMISSIONER'S OFFICE,
THIRUVANANTHAPURAM 695 001.

ADDL.4 C. JAYARAJA PANICKER , AGED 56 YEARS,
S/O APPU NAIR, RESIDING AT KANNADATH HOUSE,
CHERUVANNUR AMSOM DESOM, POST FEROKE, KOZHIKODE TALUK.
(ADDL. R4 IS IMPEADED AS PER ORDER DATED 10/02/2012 IN IA. 526/2012.

ADDL.R4 BY ADV.SRI.P.K.SAJEEV
ADDL.R4 BY ADV.SRI.V.SREENATH
R2 & R3 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR
R1 BY SRI.C.S.AJITH PRAKASH, SC, BEVERAGES CORPORATION

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1 : A ROUGH SKETCH SHOWING THE TEMPLE, MOSQUE AND THE FL1 SHOP.

EXHIBIT P2 : COPY OF LAWYER NOTICE SENT TO THE RESPONDENTS ON BEHALF OF 2nd PETITIONER AND OTHERS DATED 17.10.2011.

EXHIBIT P3 : COPY OF THE REPLY NOTICE SENT BY 1st RESPONDENT DATED 2 3.3.2011.

EXHIBIT P4 : COPY OF THE REPRESENTATION SENT BY 2nd PETITIONER TO THE 1st RESPONDENT DATED 29.11.2011

EXHIBIT P5 : COPY OF THE POSTAL ACKNOWLEDGMENT SHOWING THE RECEIPT OF EXHIBIT P4 REPRESENTATION.

EXHIBIT P6 : COPY OF REPRESENTATION SENT BY THE 1st PETITIONER TO THE SALES DEPOT IN-CHARGE/MANAGER OF THE 1st RESPONDENT DATED 28.11.2009.

RESPONDENTS' EXHIBITS : NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 34866 of 2011

Dated this the 13th day of July, 2015

JUDGMENT

Heard the learned counsel for the petitioners, the learned Standing Counsel for the first respondent, the learned counsel for the additional fourth respondent, as well as the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the first petitioner is said to be an Office bearer of a Temple; the second petitioner, a resident of the locality; and the third petitioner, the President of a Mosque. All of them have a common grievance that the FL1 shop established by the first respondent is not only within prohibited area from the Temple and the Mosque, but also is on the National Highway. Seeking shifting of the said shop,

the petitioners are said to have submitted Exhibit P4 representation. For the expeditious consideration of their grievance, the petitioners filed the present writ petition way back in 2011.

3. In response to the submissions made by the learned counsel for the petitioners, the learned Standing Counsel for the first respondent has submitted that the third respondent is the competent authority to consider petitioners' Exhibit P4 representation, though it was originally addressed to the first respondent.

4. As the writ petition has been pending since 2011, this Court desires to dispose it of with a direction to the authority concerned to consider the objections raised by the petitioners regarding the location of the FL1 shop. The fact, however, remains that the petitioners have submitted their Exhibit P4 representation before the first respondent instead of the third respondent. Under these circumstances, the petitioners are given liberty to submit a fresh representation to the third respondent, who, on receipt of the said representation, shall consider it as expeditiously as possible, at any rate, within two months from the date of receipt of the said representation and

pass appropriate orders thereon, after affording an opportunity of hearing to all parties concerned including the petitioners, the additional fourth respondent, as well as the first respondent.

With the above observations, this writ petition is disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-