

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(C).No. 33073 of 2014 (H)

PETITIONER:

**LABELLA HOSPITALITY PVT. LTD.,
MATTAMMEL HOUSE, EROOR P.O., TRIPUNITHURA,
ERNAKULAM, REPRESENTED BY ITS DIRECTOR,
MECHAEL M.JOSEPH, S/O.M. JOSEPH,
RESIDING AT MATTAMMEL HOUSE, EROOR P.O.,
THRIPUNITHURA, ERNAKULAM.**

BY ADV. SRI.B.KRISHNA MANI.

RESPONDENTS:

- 1. THE SECRETARY, MARADU MUNICIPALITY,
MARADU, ERNAKULAM DISTRICT, PIN-682 304.**
- 2. MARADU MUNICIPALITY, MARADU,
ERNAKULAM DISTRICT, PIN-682 304.**

**BY ADVS. SRI.T.R.RAJAN, SC.
SRI.S.CHANDRASENAN.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- TRUE COPY OF THE MEMORANDUM OF ASSOCIATION.
- P2:- TRUE COPY OF THE APPLICATION DTD. 19/06/2013 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P3:- TRUE COPY OF THE MINUTES OF THE MEETING DTD. 29/10/2013.
- P4:- TRUE COPY OF THE JUDGMENT DTD. 12/08/2014 IN WP(C).NO.18602/2014 FILED BY THE PETITIONER BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.
- P5:- TRUE COPY OF THE PROCEEDINGS DTD. 20/10/2014 ISSUED BY THE MUNICIPALITY.
- P6:- TRUE COPY OF THE NO OBJECTION CERTIFICATE FOR OBTAINING FL-11 LICENCE ISSUED BY THE MARADU MUNICIPALITY.

RESPONDENT'S EXHIBITS:-

- EXT.R1A COPY OF THE RESOLUTION NO.3 DATED 27/09/2014 OF THE MUNICIPAL COUNCIL OF THE SECOND RESPONDENT.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.M. SHAFFIQUE, J.

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W.P. (C) No. 33073 of 2014

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Dated this, the 26th day of October, 2015

J U D G M E N T

Petitioner has approached this Court challenging Ext.P5 by which the request of the petitioner for grant of No Objection Certificate for an FL11 licence for running a beer and wine parlour has been rejected by the Municipality on the ground that Municipal Council has taken such a decision.

2. Petitioner relies upon Ext.P6, another order issued by the very same Municipality on 17/7/2013 by which FL11 licence had been granted to Hotel Crown Plaza, a unit of M/s. KGA Hotels & Resorts Pvt. Ltd. It is contended that a copy of the resolution had not been forwarded to the petitioner and there is no valid reason stated in Ext.P5 to reject licence to the petitioner.

3. Counter affidavit has been filed by the Municipality *inter alia* stating that Municipality as per decision in terms of Resolution No.3 dated 27/9/2014 has decided not to grant NOC to the petitioner in the best interest of the public and to reduce consumption of liquor within the Municipal limits.

4. Heard the learned counsel for the petitioner and the learned counsel appearing for the Municipality.

5. It is submitted by the learned counsel for the petitioner that no valid reason had been stated in the order for refusing the No Objection Certificate. He also relies upon Ext.R1(a) decision of the Council, which also does not indicate any specific reasons. Learned counsel appearing for the Municipality however would rely upon paragraphs 6 and 7 of the counter affidavit to state that the Municipality is intending to reduce the consumption of liquor and therefore a decision in that regard had been passed in public interest. That apart, it is stated that the classification of the Hotel has not been stated.

6. Be that as it may, no specific reason had been stated by the Municipality to refuse No Objection Certificate to the petitioner, despite the fact that the Municipality themselves had stated in para 5 of their counter that Health Inspector had opined that the premises of the hotel was kept in hygienic conditions and facilities are available for distribution of beer and wine as well.

7. Taking into consideration the aforesaid factual situation and the fact that the Municipality has granted licence to

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-:3:-

run beer and wine parlour to various hotels in the area, I am of the view that Ext.P5 is liable to be set aside and there will be a direction to the Municipality to consider the application of the petitioner for beer and wine parlour afresh and in accordance with the observations made above, within a period of three months from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

27/10/2015

Rp

//True Copy//

P.S to Judge