

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 33594 of 2015 (Y)

PETITIONERS :-

1. P.S.SURESH KUMAR, AGED 44 YEARS,
S/O V.K. SADANANDAN, S.N. SADANAM,
K.K.ROAD, KUMILY-685 509.
2. SUMA ASOKAN, AGED 45,
W/O ASHOKAN, AISWARYIL HOUSE,
OPP. HOLIDY HOUSE, KUMILY.
3. AANIAMMA EASO, AGED 63,
W/O V.M. EASOW, VAZHAYIL HOUSE,
WARD NO. VIII/260, OPP. HOLIDAY HOME, KUMILY.
4. V.M. EASOW, AGED 86,
S/O MAMEEN-DO-
5. I.P.ALIYAR, AGED 58,
S/O PAREETH, IMANAKUDIYIL HOUSE,
NEAR GANDHI PARK, K.K. ROAD, KUMILY.
6. ANTONY JOSEPH, AGED 53,
S/O JOSEPH, KUNNIPARAMBIL HOUSE,
OPP.GANDHI PARK, K.K. ROAD, KUMILY.

BY ADVS.SRI.K.S.MADHUSOODANAN
SRI.M.M.VINOD KUMAR
SMT.K.M.RAMYA
SRI.P.K.RAKESH KUMAR
SRI.K.S.MIZVER

RESPONDENTS : -

1. STATE OF KERALA,
REPRESENTED BY SECRETARY, EXCISE DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695 001.
2. EXCISE COMMISSIONER,
EXCISE COMMISSIONERATE,
THIRUVANANTHAPURAM-695 001.

3. KERALA STATE BEVERAGES CORPORATION,
SASTHAKRIPA OFFICE COMPLEX, SASTHAMANGALAM,
THIRUVANANTHAPURAM-695 001,
REPRESENTED BY MANAGING DIRECTOR.

4. MANAGER IN CHARGE,
F.L.NO.1/06030 OF KERALA STATE BEVERAGES CORPORATION,
KUMILY, HN - 685 509.

5. KUMILY GRAMA PANCHAYATH,
KUMILY REPRESENTED BY ITS SECRETARY, PIN -685 509.

6. SECRETARY ,
ROAD TRANSPORT AND HIGHWAYS MINISTRY,
PARLIAMENT STREET, NEW DELHI-110 001.

R6 BY ADV.SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

R5 BY ADV.SRI.P.K.VIJAYAMOCHANAN

BY ADV.SRI. S. SHANAVASKHAN

BY GOVERNMENT PLEADER SRI. REJI JOSEPH

R3 & R4 BY SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORPORATION

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS : -

- EXT.P1 : PHOTO OF THE PRESENT PREMISE.
- EXT.P1(a) : PHOTO OF THE PROPOSED LOCATION.
- EXT.P1(b) : PHOTO OF THE TEMPLE.
- EXT.P2 : PHOTOCOPY OF ROUGH SKETCH.
- EXT.P3 : PHOTOCOPY OF COMPLAINT OF 1ST PETITIONER.
- EXT.P3(a) : TRUE ENGLISH TRANSLATION OF EXT.P3.
- EXT.P4 : PHOTOCOPY OF COMPLAINT OF 2ND PETITIONER.
- EXT.P4(a) : TRUE ENGLISH TRANSLATION OF EXT.P4.
- EXT.P5 : PHOTOCOPY OF ORDER IN WPC 4018/14 DATED 10/11/14.
- EXT.P6 : PHOTOCOPY OF NEWS FROM PRESS INFORMATION BUREAU.
- EXT.P7 : PHOTOCOPY OF NEWS FROM THE HINDU DATED 30/5/13.
- EXT.P8 : PHOTOCOPY OF THE JUDGMENT IN WPC 9832/12 DATED 10/9/12.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 33594 of 2015

Dated this the 15th day of December, 2015

JUDGMENT

Based on the request of the Beverages Corporation, which is the third respondent, the Commissioner of Excise or his delegate has been seized of the issue whether the outlet of the Beverages Corporation can be shifted from one location to another. In the meanwhile, the petitioners belonging to the area to which the retail outlet is sought to be shifted have filed Exhibits P3 and P4 objections against the proposal. Later they have approached this Court.

2. In response to the submissions made by the learned counsel for the petitioners, both the learned Government Pleader and the learned Standing Counsel for the Beverages Corporation have submitted that the Excise Commissioner or his delegate, who is to consider the issue of shifting may also consider petitioners Exhibits P3 and P4 objections and pass appropriate orders thereon.

3. At this juncture, the learned counsel for the petitioners has submitted that the authority who is to consider the issue of shifting shall also take into account Exhibits P5

and P8 judgments rendered by this Court. He has further pleaded that until a decision is taken, the actual shifting shall not take place.

4. In reply, the learned Standing Counsel has submitted that the authority concerned may as well consider the judgments referred to by the learned counsel for the petitioners, provided they have any relevance to the issue. He has further dispelled the apprehension of the petitioners and assured that there will not be any shifting until the competent authority orders in favour of the Beverages Corporation.

In the facts and circumstances, this Court disposes of the writ petition with a direction to the Excise Commissioner or his delegate, who is to consider the issue of shifting of the retail outlet belonging to the Beverages Corporation, to consider petitioners' Exhibits P3 and P4 representations as well and pass appropriate orders thereon at the earliest.

DAMA SESHADRI NAIDU
JUDGE

DMR/-