

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 35027 of 2014 (C)

PETITIONER :

**M/S.NEON INDANE SERVICES
BROTHERS BUILDING, EDAVANNAPPARA ROAD,
KONDOTTY P.O, MALAPPURAM DISTRICT, PIN 673 638
REPRESENTED BY ITS PROPRIETRIX SMT. FAHMIDA LASIN.**

**BY ADVS.SRI.K.SHIBILI NAHA
SRI.SAJU RAGHAVAN**

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR,
MALAPPURAM, PIN - 676 505.**
- 2. INDIAN OIL CORPORATION,
REPRESENTED BY CHIEF AREA MANAGER
INDIANE AREA OFFICE, 2ND FLOOR, PMK TOWELS
CIVIL STATION P.O., WAYANAD ROAD
KOZHIKODE, PIN 673 020.**
- 3. BHASKARAN K.P.,
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER
PARALIL, MUNDAPPALAM, KONDOTTY
MALAPPURAM - 673 505.**

**R1 BY GOVT. PLEADER SMT. ANITHA RAVEENDRAN
R2 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR, SC
R3 BY ADVS. SRI.BABU S. NAIR
SRI.K.RAKESH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT P1 TRUE COPY OF THE LETTER OF INTENT ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P2 TRUE COPY OF THE LICENSE ISSUED BY THE JOINT CHIEF CONTROLLER OF EXPLOSIVES, SOUTH CIRCLE, CHENNAI.
- EXHIBIT P3 TRUE COPY OF THE NOTICE DATED 05.07.2014 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE APPROVAL GRANTED BY THE 2ND RESPONDENT DATED 13-08-2014.
- EXHIBIT P5 TRUE COPY OF THE DEMAND DRAFT DATED 04-12-2014 EVIDENCING PAYMENT OF RS.500/- IN FAVOUR OF JOINT CHIEF CONTROLLER OF EXPLOSIVES FOR APPROVAL OF BUILDING.
- EXHIBIT P6 TRUE COPY OF THE CHELAN EVIDENCING THE FOR CONSTRUCTION OF LPG GODOWN THROUGH CHECKODE GRAMA PANCHAYATH.
- EXHIBIT P7 TRUE COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT ON 18-07-2014.
- EXHIBIT P8 TRUE COPY OF THE REPRESENTAITON SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ON 03-12-2014.
- EXHIBIT P9 TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT AND RECEIVED BY THE PETITIONER ON 18-12-2014 BY REGISTERED POST.
- EXHIBIT P10 COPY OF THE PRIMARY APPROVAL/EXPLOSIVE LICENCE.
- EXHIBIT P11 COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE DIVISIONAL OFFICER, FIRE AND RESCUE SERVICE, PALAKKAD DATED 30.12.2014.
- EXHIBIT P12 COPY OF THE PROCEEDINGS DATED 19.1.2015.
- EXHIBIT P13 COPY OF THE CONSENT ISSUED BY THE POLLUTION CONTROL BOARD DATED 29.1.2015.

RESPONDENT(S)' EXHIBITS :

//TRUE COPY//

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.35027 OF 2014
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Dated this the 25th February, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

"i) issue a writ of certiorari or any other appropriate writ, order or direction calling for records leading to Exhibit P9 and quash the original of the same.

ii) issue any appropriate writ, order or direction commanding the 1st respondent to consider Exhibit P8 representation and pass orders thereon after affording an opportunity of hearing as provided under Rule 57 of the Gas Cylinders Rules, 2004.

iii) Declare that Exhibit P9 order is unsustainable in so far as Exhibit P2 licence permits continuance till September, 2014;

iv) grant such other and further relief as this Honourable Court may deem fit and proper in the facts and circumstances of the case."

2. The matter has been brought up at the instance of the third respondent /Bhaskaran K.P, who points out that because of the interim stay granted by this Court, much loss and hardships

are being resulted and hence seeks to vacate the same .

3. The third respondent has filed a counter affidavit and petitioner has filed a reply affidavit as well. Heard both the sides in detail.

4. During the course of hearing, it is brought to the notice of this Court that extension of time for shifting the godown was sought for and sanctioned twice by the District Collector. Earlier, time was extended by three months on 16.07.2014 as per orders of the District Collector. Further extension was sought for on 13.10.2014 when it was considered and extended till 03.12.2014. The petitioner filed an application again and after considering the same, it was rejected by the District Collector as per Ext.P9, which in turn is under challenge in this writ petition.

5. After hearing both the sides, this Court finds that the petitioner has not substantiated the cause of action projected in this writ petition so as to invoke the discretionary jurisdiction of this Court to grant any positive relief.

6. The learned Counsel for the petitioner however submits that appropriate alternative arrangements have already been made and that the same will be finalised . The only prayer is to

permit the petitioner to continue for a period of 45 days; simultaneously assuring and undertaking that vacant surrender will be effected within 45 days. The said submission is recorded. The benefit of interim stay granted by this Court will stand extended by 45 days from today, on expiry of which vacant surrender will be effected to the third respondent.

The writ petition is disposed of.

**P.R.RAMACHANDRA MENON
JUDGE**

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