



W.P(MD)No.10705 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.10705 of 2024

and

W.M.P(MD)No.9579 of 2024

G.Gnana Benzigar

... Petitioner

Vs

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Block Development Officer/Commissioner,
Kurunthancode Panchayat Union,
Kurunthancode and Post,
Kanyakumari District.

3.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Water Tank Road,
Nagercoil,
Kanyakumari District.

4.The Deputy Director of Health Services,
Krishnankoil Street,
Near Vadaseri Police Station,
Nagercoil,
Kanyakumari District.

5.The Commissioner,
Kurunthancode Panchayat Union,
Kanyakumari District.

6.P.Murugesan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the fifth respondent vide proceedings in Se.Mu.No.A2/254/2022 dated 26.03.2024 and consequential impugned order passed by the fourth respondent vide proceedings in Na.Ka.No.11928/A3/2023 dated 04.04.2024 and quash the same as illegal and consequently to direct the respondents to issue no objection and permit the petitioner to operate M/s.Akash Saw Mill situated in re-survey Nos. 106/1, 106/9 and 106/8A of Kurunthancode Village, Kanyakumari District within the period stipulated by this Court.

For Petitioner : Mr.M.Mohamed Zamil
for M/s.Ajmal Associates

For R – 1 : Mr.D.Gandhi Raj
Special Government Pleader

For RR 2, 4 & 5 : No appearance

For R - 3 : M/s.Madhuri Donti Reddy

For R – 6 : Mr.C.Godwin
for M/s.Madhuri Donti Reddy

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the fifth respondent dated 26.03.2024 and the consequential order passed by the fourth respondent dated 04.04.2024 thereby rejecting to issue No Objection Certificate to permit the petitioner to operate saw mill



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situated in the land comprised in Re-survey Nos.106/1, 106/9 and 106/8A of Kurunthancode Village, Kanyakumari District.

2.The petitioner owned the land comprised in Re-survey Nos.106/1, 106/9 and 106/8A of Kurunthancode Village, Kanyakumari District and initially leased out in favour of one M.Vaikundarajan to run a sawmill in the name of M/s.Priyas Saw Mill. Thereafter, he was not able to continue the business and sold out in favour of the petitioner in respect of machinery and other materials. The said Vaikundarajan was granted permission by the Forest Ranger by its communication dated 19.08.2021 under the Wood Based Industries Regulation Rules, 2010. Thereafter, the petitioner obtained planning permission and constructed a saw mill with the office building to an extent of 31.81 square metres. While being so, the sixth respondent objected to run the sawmill in order to extract money. The sixth respondent raised objections and he filed a Writ Petition before this Court in W.P(MD)No.2854 of 2022 and this Court by order dated 11.02.2022, directed the District Collector to pass orders on the representation. As directed by this Court, the first respondent conducted enquiry and sealed the mill of the petitioner by the second respondent.



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3.The learned counsel appearing for the petitioner would submit that the petitioner obtained No Objection Certificate from all the concerned departments to run a sawmill. Finally, the petitioner also applied for No Objection Certificate from the Tamil Nadu Pollution Control Board. Subsequently, the Forest Department also extended the licence period till 31.03.2027.

4.The sixth respondent filed a counter-affidavit and on the submissions made by the learned counsel appearing for the sixth respondent would reveal that originally one M.Vaikundarajan run the saw mill without licence. Therefore, the neighbours had filed a Writ Petition before this Court in W.P(MD)No.10569 of 2006 and thereby, this Court by order dated 12.10.2009 directed to close the mill. Even then, the said M.Vaikundarajan run the mill. In the Contempt Petition he was punished and imposed a fine of Rs. 30,000/-. At that juncture, the said M.Vaikundarajan sold the sawmill in favour of the petitioner. Further, the sixth respondent's house is located within 37 meters from the sawmill. Similarly, 10 houses are located very near to the saw mill within a radius of 37, 52, 72, 60, 80, 51, 55, 57 and 40 meters. Further, the saw mill also



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will affect the health of the neighbours, who are residing nearer to the saw mill apart from the noise and air pollution.

5. On perusal of the counter-affidavit filed by the third respondent and on the submissions made by the learned counsel appearing for the third respondent would reveal that on receipt of the complaint alleging that the dust emanating from the unit will cause health issues to the public residing nearby within the close proximity of the mill. Therefore, the petitioner was issued a show-cause notice under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1974, vide proceedings dated 08.04.2022. The petitioner submitted a reply stating that the mill has provided a compound wall to the height of 10 feet and also provided dust collection for the other mills. As directed by this Court, the District Collector issued notice to the third respondent to attend the enquiry. Thereafter, the mill was locked and sealed. The petitioner was directed to obtain No Objection Certificate from the Department of Health Services and Pollution Control Board and Fire and Rescue Services to re-open the mill. The mill was unsealed to conduct an Ambient Air Quality survey. Accordingly, it was carried out in the vicinity of the mill on



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16.10.2023. As per the report submitted by the Ambient Air Quality survey revealed that the parameters analyzed were within the standards prescribed by the Board. Thereafter, consent was issued to the mill under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 vide proceedings dated 01.12.2023 which is valid upto 31.03.2026 for manufacturing/processing of sized wooden planks. Therefore, though objections were raised by the neighbours, it is baseless and without basis of any Rules. Therefore, the petitioner has no need to obtain No Objection Certificate from the residents who are residing near the petitioner's mill. In view of the above, the impugned orders passed by the respondents 5 and 4 cannot be sustained and the same is liable to be quashed. Accordingly, the impugned orders passed by the respondents 5 and 4 are quashed. The respondents 4 and 5 are directed to conduct an inspection of the petitioner mill and issue No Objection Certificate so as to operate the sawmill situated in the land comprised in Re-survey Nos.106/1, 106/9 and 106/8A of Kurunthancode Village, Kanyakumari District, within a period of four weeks from the date of receipt of a copy of this order. The third respondent must ensure that the petitioner saw mill follows the prescribed standards of noise as well as air pollution while operating the sawmill.



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6.With the above direction, this Writ Petition is allowed.

There shall be no order as to costs. Consequently, connected
Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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