

N.Aboobacker Vs. the District Collector and Others

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Court : Kerala

Decided On : Oct-03-2013

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : N.Aboobacker

Respondent : The District Collector and Others

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON THURSDAY, THE 3D DAY OF OCTOBER 2013 11TH ASWINA, 1935 WP(C).No. 2761 of 2008 (D) ----- PETITIONER : ----- N.ABOOBACKER, S/O. ETHUALU HAJI, NEERULPAN HOUSE, EDAVANNA P.O., MALAPPURAM DISTRICT. BY ADV. SRI.K.K.JAYARAJ NAMBIAR RESPONDENTS : ----- 1. THE DISTRICT COLLECTOR, MALAPPURAM DISTRICT.

2. THE KERALA STATE POLLUTION CONTROL BOARD, DISTRICT OFFICE, 19/269 A, PERINTALMANNA ROAD, U.P.HILL, MALAPPURAM-676 505.

3. EDAVANNA GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, EDAVANNA, MALAPPURAM DISTRICT.

4. ABDULLA KOYA, S/O. EINIKAKKA,, KADAVATH HOUSE, EDAVANNA P.O., MALAPPURAM DIST. BY GOVERNMENT PLEADER SMT. K.A. SANJEETHA R2 BY ADV. SRI.A.SUDHI VASUDEVAN R2 BY ADV. SRI. M.AJAY, SC, KERALA

STATE POLLUTION CONTROL BOARD BY SRI.M.K.CHANDRA MOHANDAS,SC,KERALA STATE POLLUTION CONTROL BOARD R4 BY ADV. SRI.R.RAMADAS THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/10/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 2761 of 2008 (D) APPENDIX PETITIONER'S EXHIBITS : P1 COPY OF REPRESENTATION DATED 29/05/2007 SUBMITTED BY THE PETITIONER TO THE 3D RESPONDENT. P2 COPY OF REPRESENTATION DATED 07/06/2007 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT. P3 COPY OF THE REPRESENTATION DATED 18/06/2007 SUBMITTED BY THE PETITIONER TO THE 2D RESPONDENT. P4 COPY OF THE COMMUNICATION DATED 30/06/2007 ISSUED BY THE 2D RESPONDENT TO THE PETITIONER. P5 COPY OF COMMUNICATION DATED 31/08/2007 SENT BY THE 1ST RESPONDENT TO THE PETITIONER. RESPONDENTS' EXHIBITS : R4(a) COPY OF LETTER DATED 30/11/2007 SUBMITTED BY THIS RESPONDENT TO ENVIRONMENTAL ENGINEER OF THE KERALA STATE POLLUTION CONTROL BOARD. R4(b) COPY OF ROUGH SKETCH SHOWING THE LIE OF THE PETITIONER'S HOUSE, THIS RESPONDENT'S HOUSE AND BUSINESS PREMISES. // True Copy // P.A. To Judge DSV/- P.R. RAMACHANDRA MENON, J.

----- W.P.C.No.2761
OF 2008----- Dated this the 3rd day of October, 2013.

JUDGMENT

The petitioner has approached this Court with the following prayers:- "i. Call for the records of this case; ii. Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents 1 to 3 to take immediate action including penal action against the 4th respondent for stopping the air pollution caused due to his improper manner of running the cement godown and the flour mill, rather than confining their action against the 4th respondent merely on exhibits P4 and P5 communications; iii. Issue such other and further relief as this Hon'ble Court deems fit and proper to grant in the facts and circumstances of this case." 2. When the matter was taken up for hearing before this Court on 02.04.2009, the learned Standing Counsel appearing for the 2nd respondent

submitted that the directions issued by the Pollution Control Board had already been complied with. The matter came up for further consideration on 29.05.2009, when the petitioner sought for adjournment and it was never moved thereafter. Today, when the matter is taken up for consideration, the learned counsel for the petitioner seeks for further adjournment. This Court does not find any tenable reason to W.P.C.No.2761 OF20082 adjourn the case further, being a matter of the year '2008'; which was never admitted so far.

3. The 4th respondent had filed a Counter Affidavit pointing out that no pollution is being generated because of the Cement Godown and that the 4th respondent himself is residing with family, within a radius of 10 meters from the business premises. The compliance with the directions/conditions insisted by the 2nd respondent has been asserted in paragraph 3 of the Counter Affidavit, producing a copy of the intimation given to the Pollution Control Board as to the satisfaction of the conditions vide Ext.R4 (a), also producing a rough sketch as Ext.R4(b). The said affidavit was filed as early as on 02.04.2009 and during the past three years, no allegation was ever made by the petitioner and no reply affidavit has been filed, if the versions of the Pollution Control Board and that of the 4th respondent were not correct. In the above circumstances, this Court finds that no intervention is required at the hands of this Court and the writ petition is disposed of, without prejudice to the rights and W.P.C.No.2761 OF20083 liberties of the petitioner to pursue the matter, if any cause of action arises in future; by bringing it to the notice of the 2nd and 3rd respondents. Writ Petition is disposed of. P.R. RAMACHANDRA MENON, JUDGE sp

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