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V.Hamza Vs. State Level Committee

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Court : Kerala

Decided On : Nov-07-2013

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

Appellant : V.Hamza

Respondent : State Level Committee

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON THURSDAY, THE7H DAY OF NOVEMBER201316TH KARTHIKA, 1935 WP(C).No. 4563 of 2010 (U) ---------- PETITIONER : ---------- V. HAMZA, AGED53YEARS, S/O.AHAMMED, VYSYAN HOUSE, KUMBALAKKAD P.O. WAYANAD DISTRICT. BY ADV. DR.GEORGE ABRAHAM RESPONDENT(S) : ---------- 1. STATE LEVEL COMMITTEE FOR WOOD BASED INDUSTRIES (KERALA), REPRESENTED BY ITS CONVENOR THE CHIEF FOREST CONSERVATOR, OFFICE OF THE CHIEF FOREST CONSERVATOR, FOREST HEADQUARTERS, VAZHUTHAKKAD, THIRUVANANTHAPURAM-14.

2. THE CENTRAL EMPOWERED COMMITTEE, REP. BY ITS MEMBER SECRETARY, IIND FLOOR CHANAKYA BHAVAN, CHANAKYAPURI, NEW DELHI-21.

3. KANIYAMPATTA GRAMA PANCHAYAT REP. BY ITS SECRETARY, KANIRAMPATTA POST WAYANAD DISTRICT.

4. THE SECRETARY, KANIYAMPATTA GRAMA PANCHAYAT, KANIRAMPATTA POST,WAYANAD DISTRICT. R1 BY SPL. GOVT. PLEADER (FOREST) SRI. M.A. THOMAS KUTTY R2 BY ADV. SRI.P.PARAMESWARAN NAIR, ASGI R4 BY ADV. SRI.MANOJ RAMASWAMY THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON0711-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn ...2/- WP(C).No. 4563 of 2010 (U) APPENDIX PETITIONER'S EXHIBITS : EXT.P1 : COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE DEPARTMENT OF INDUSTRIES & COMMERCE TO THE PETITIONER'S UNIT. EXT.P2 COPY OF LETTER DATED155-1989 ISSUED BY THE FOREST RANGE OFFICER, KALPETTA TO THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, KALPETTA. EXT.P3 COPY OF LICENCE ISSUED BY THE KANIYAMPATTA GRAMA PANCHAYAT. EXT.P4 COPY OF THE LAST RENEWAL OF THE LICENCE UP TO313-2007 BY THE PANCHAYAT FOR THE SAW MILL. EXT.P5 COPY OF LETTER DATED233-2005 ISSUED BY THE INDUSTRIES DEPARTMENT TO THE GENERAL SECRETARY OF WAYANAD DISTRICT SAW MILL OWNERS' ASSOCIATION. EXT.P6 COPY OF RECEIPT ISSUED BY THE CHIEF CONSERVATOR OF FOREST DATED116-2008. EXT.P7 TRUE COPY OF THE

JUDGMENT

IN WRIT PETITION) NO. 36852/08 DATED21-2009. EXT.P8 COPY OF THE COMMUNICATION DATED192-2009 ISSUED BY THE2D RESPONDENT. EXT.P9 COPY OF VERIFICATION REPORT OF THE COMPETENT FOREST AUTHORITY. EXT.P10 COPY OF NO OBJECTION CERTIFICATE ISSUED BY THE1T RESPONDENT DATED11-2010. EXT.P11 COPY OF COVERING LETTER DATED21-2010. (Contd...) WP(C).No. 4563 of 2010 (U) EXT.P12 COPY OF THE LICENCE ISSUED BY THE PANCHAYAT FOR THE YEAR199495. EXT.P13 COPY OF EXHIBIT P12 LICENCE RENEWED BY THE PANCHAYAT UP TO313-2007. EXT.P14 COPY OF CERTIFICATE DATED58-2009 STATING THAT THE PETITIONER IS CONDUCTING HIS SAW MILL PRIOR TO3010-2002. EXT.P15 COPY OF COMMUNICATION DATED92-2011 ISSUED BY THE

PANCHAYAT ASKING THE PETITIONER TO CLOSE DOWN HIS SAW MILL UNIT. EXT.P16 COPY OF PETITIONER'S REPLY TO EXHIBIT P15. RESPONDENT'S EXHIBITS : NIL //TRUE COPY// P.A. TO JUDGE Mn P.R.RAMACHANDRA MENON, J.

- W.P.(c)No.4563 OF2010- Dated this the 7th day of November, 2013

JUDGMENT

It is the case of the petitioner that he started a furniture unit and a saw mill way back in the 'Eightees' and necessary consents were obtained from the Forest Department as well as from the Industries Department in this regard, apart from clearance from the Local Authority. But in connection with the expiry of the licence in 2007-08, the local authority refused to renew the same for want of necessary NOC from the Forest Department, pursuant to the law declared by the Apex Court in T.N.Godavarman Thirumalpad v. Union of India & Others (2002 (9) SCALE91. The petitioner preferred an application before the first respondent, to issue necessary NOC for running the saw mill. Ext.P9 is the verification report which according to the petitioner stands in favour of the petitioner recommending issuance of the same. However, after considering the same, Ext.P1 order was passed by the first respondent granting No Objection Certificate only in respect of W.P.(C)No.4563/2010 2 furniture unit. As per Ext.P11 proceedings of the Chief Conservator of Forest, the petitioner has been let known that since the saw mill and the furniture unit were sought to be established in the same premises, No Objection Certificate could not be issued for the saw mill. This made the petitioner to approach this Court by filing this writ petition.

2. Heard the learned Government Pleader as well.

3. The learned counsel for the petitioner submits that, by virtue of the change in circumstance and also the relevant provisions of law, the petitioner, is ready to shift either of the two units to some other premises, so as to enable the petitioner's application to be considered for granting NOC for the saw mill.

4. The learned Government Pleader submits that, if a proper application is filed before the competent authority, who presently is the Divisional Forest Officer (not a party to the present writ petition), the same will be considered and appropriate orders will be passed in accordance with law, after ascertaining the merits involved.

5. In the said circumstances, the petitioner is set at liberty to approach the competent authority by filing necessary application within W.P.(C)No.4563/2010 3 'two weeks' from the date of receipt of a copy of this judgment, upon which the same will be caused to be considered and appropriate orders will be passed by the said authority within 'three months' thereafter. Writ petition stands disposed of. P.R.RAMACHANDRA MENON JUDGE sv.

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