

Chandy Joseph Vs. the Chief Conservator of Forests

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Court : Kerala

Decided On : Nov-15-2013

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

Appellant : Chandy Joseph

Respondent : The Chief Conservator of Forests

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON FRIDAY, THE 15TH DAY OF NOVEMBER 2013 24TH KARTHIKA, 1935 WP(C).No. 10470 of 2011 (G) PETITIONER:- ----- CHANDY JOSEPH, S/O.JOSEPH, KANJIRAKATTU KUNNEL HOUSE, MARIYAPURAM P.O., IDUKKI - 685 602. BY ADV. SRI.M.C.JOHN RESPONDENTS:- ----- 1. THE CHIEF CONSERVATOR OF FORESTS, (SPL.AFFORESTATION) & NODAL OFFICER, FOREST HEAD QUARTERS, VAZHUTHACAUD, TRIVANDRUM, PIN - 695 001.

2. THE DIVISIONAL FOREST OFFICER, KOTTAYAM, PIN - 686 001.

3. THE FOREST RANGE OFFICER, AYYAPPANCOIL RANGE, KATTAPPANA, IDUKKI, PIN - 685 508. BY SENIOR GOVERNMENT PLEADER. SMT.M.J.RAJASREE. BY SRI.M.P.PRAKASH, SPL.GP FOR FOREST THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-11-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:- KKS

WPC.NO.10470/2011(G) ----- APPENDIX PETITIONER'S
EXHIBITS:- EXIHIBIT-P1. TRUE COPY OF THE PANCHAYAT LICENCE NO.B1
(31/10) 3905/10 DATED2012.2010 ISSUED BY THE
SECRETARY,MARIYAPURAM GRAMA PANCHAYAT. EXHIBIT-P2. TRUE COPY
OF THE CERTIFICATE DATED2005.2010 ISSUED BY THE
PRESIDENT,MARIYAPURAM GRAMA PANCHAYAT. EXHIBIT-P3. TRUE COPY
OF THE CERTIFICATE, DATED1101.2011 ISSUED BY THE
SECRETARY,MARIYAPURAM GRAMA PANCHAYAT. EXHIBIT-P4. TRUE COPY
OF THE LETTER NO. L/2687 DISTRICT INDUSTRIES CENTRE, IDUKKI.
EXHIBIT-P5. TRUE COPY OF THE

ORDER

DATED2930-10-2002 OF THE HON'BLE SUPREME COURT IN W.P.(C)
NO.202/95. EXHIBIT-P6. TRUE COPY OF THE ACKNOWLEDGEMENT LETTER
FC-3-2137/09 DATED0411.2009 ISSUED BY THE1T RESPONDENT. EXHIBIT-
P7. TRUE COPY OF THE

JUDGMENT

DATED2608.2009 IN W.P.(C) NO.21800/2009. EXHIBIT- P8. TRUE COPY OF
THE

JUDGMENT

DATED2401.2011 IN W.P.(C)NO. 672/2011. EXHIBIT- P9. TRUE COPY OF THE
LETTER NO. FC4-2137/2009 DATED2103.2011 ISSUED BY THE1T
RESPONDENT. EXHIBIT- P10. TRUE COPY OF THE REPLY DATED3003.2011
TO THE1T RESPONDENT. RESPONDENTS EXHIBITS:- NIL //TRUE COPY//
P.S.TO JUDGE KKS P.R. RAMACHANDRA MENON, J.

..... W.P.(C)No. 10470
OF2011..... Dated this the 15th
November m 2013

JUDGMENT

The petitioner has approached this Court with the following prayers: "i) issue a writ of certiorari quashing Exhibit P9 and all proceedings pursuant thereto dismantle the 12.5 HP Re-Saw from the petitioner's wood based industry. ii) issue a direction to the 1st respondent to afford an opportunity to the petitioner to produce evidence and personal hearing before taking any drastic decision on the petitioner's application for NOC. iii) declare that the petitioner is entitled to use the 12.5 HP Re-Saw in the wood based industry iv) restrain the respondents 2 and 3 from interfering in any manner with the petitioner's wood based industry. v) issue such other writ, order or direction including interim orders as that are necessary in the circumstances of the case; vi) allow that W.P.(C) with costs.

2. When the matter came up for consideration on 01.04.2011, 'status quo' was ordered to be maintained and it was W.P.(C)No. 10470 OF20112 extended until further orders on 24.05.2011. The learned Counsel for the petitioner submits that by virtue of operation of law, particularly, under Rule 9 of the Kerala Forest (Regulation of Saw Mills and other wood based Industrial Units) Rules 2012, the petitioner cannot operate the Saw Mill and the Furniture Unit in the same premises/location and that the petitioner is ready to re- locate one of the units- Furniture Unit to some other premises. It is also submitted that the prayer is to cause the application for NOC to be considered and finalised in the said circumstance.

3. The learned Government Pleader submits that it is for the petitioner to submit necessary undertaking followed by an affidavit and such other requirements, as contemplated under the Rules, before the second respondent/Divisional Forest Officer, on which event, the same will be considered and appropriate orders will be passed within the shortest possible time.

4. In the said circumstance, the petitioner is set at liberty to approach the second respondent/Divisional Forest Officer, by filing necessary proceedings within 'two weeks' from the date of receipt of a copy of the judgment, upon which, the same will be W.P.(C)No. 10470 OF20113 considered and appropriate orders will be passed within one month thereafter. Interim order of 'Status quo' will continue till the proceedings are finalised as above. The petitioner shall produce a copy of the

judgment along with a copy of the writ petition before the second respondent/Divisional Forest Officer for further steps. P.R.RAMACHANDRA MENON JUDGE Ik

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