

Shine Vs. the District Collector, Palakkad District.

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Court : Kerala

Decided On : Jan-23-2014

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

Appellant : Shine

Respondent : The District Collector, Palakkad District.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON THURSDAY, THE 23RD DAY OF JANUARY 2014 3RD MAGHA, 1935 WP(C).No. 30418 of 2013

(B) ----- PETITIONER : ----- SHINE, S/O.MOHAMMED ALI, AGED 35 YEARS, KODUPILLY HOUSE, NEDUMBASSERY POST, CHEMMANAD VILLAGE, ALUVA TALUK, ERNAKULAM DISTRICT. BY ADV. SRI.P.M.ZIRAJ RESPONDENT(S): ----- 1. THE DISTRICT COLLECTOR, CIVIL STATION, PALAKKAD DISTRICT, PIN-678 001.

2. THE DISTRICT GEOLOGIST, CIVIL STATION, PALAKKAD DISTRICT, PIN-678 001. R1 & R2 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-01-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: sts WP(C).No. 30418 of 2013 (B) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- P1: COPY OF THE

TITLE DEED OF THE PROPERTY NO.742/2008 OF KOZHINJAMPARA SUB REGISTRAR OFFICE DATED 16.04.2008. P2: COPY OF THE TAX RECEIPT OF THE PROPERTY DATED 15.06.2013 ISSUED BY THE VILLAGE OFFICER, OZHALAPATHY VILLAGE. P3: COPY OF THE RELEVANT PAGE OF THE BASIC TAX REGISTER ISSUED BY OZHALAPATHY VILLAGE OFFICER WITHOUT DATE. P4: COPY OF THE CERTIFICATE DATED 17.01.2012 ISSUED BY VILLAGE OFFICER, OZHALAPATHY VILLAGE. P5: COPY OF THE SKETCH OF THE PROPERTY ISSUED BY THE TALUK SURVEYOR. P6: COPY OF THE

ORDER

OF THE FIRST RESPONDENT TO THE SECOND RESPONDENT AND TO THE AGRICULTURAL OFFICER, VADAKARAPATHY PANCHAYAT DATED 6.3.2013. P7: COPY OF THE

ORDER

DATED 8.3.2013 ISSUED BY THE SECOND RESPONDENT. P8: COPY OF THE APPLICATION DATED 01.04.2013 SUBMITTED BY THE PETITIONER BEFORE THE 2D RESPONDENT. P9: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 02.04.2013. P10: COPY OF THE

ORDER

DATED 17.04.2013 ISSUED BY THE FIRST RESPONDENT TO THE SECOND RESPONDENT AND AGRICULTURAL OFFICER, VADAKARAPATHY. P11: COPY OF THE REPORT FROM THE AGRICULTURAL OFFICER, VADAKARAPATHY PANCHAYAT TO THE FIRST RESPONDENT. RESPONDENT(S)' EXHIBITS: NIL /TRUE COPY/ P.A.TO.JUDGE sts P.R. RAMACHANDRA MENON J.

~~~~~ W.P.(C) No. 30418 of 2013  
~~~~~ Dated, this the 23rd day of January, 2014

JUDGMENT

The petitioner was originally granted necessary sanction for digging a pond as per Ext. P6 NOC issued by the first respondent, however stipulating a time frame.

According to the petitioner, no such time frame can be stipulated by virtue of Rule 5 (5) of the Kerala Minor and Mineral Concession (Amendment) Rules. By virtue of the exemption provided therein, the petitioner has filed Ext. P8 application before the second respondent to extend the period to dig the pond, without insisting for NOC to be issued by the first respondent. The delay in acting upon the same made the petitioner to approach this Court by filing the present writ petition.

2. The learned Government Pleader appearing for the respondents submits that a spot inspection will be conducted by the concerned authorities to ascertain whether the activity sought to be carried out by the petitioner is a genuine one.

3. After hearing both the sides, the Writ Petition is disposed of, directing the second respondent to consider and pass appropriate orders on Ext. P8, without insisting for NOC from the first respondent, W.P.(C) No. 30418 of 2013 :

2. : if the sanction sought for by the petitioner comes within the purview of Rule 5 (5) of KMMC Rules, in accordance with law, at the earliest, at any rate, within one month, incorporating necessary conditions, if any, to safeguard the rights and interests of the respondents. It is open for the respondents to interfere if the activity being pursued by the petitioner is not in conformity with the Statutory provisions and they will be free to initiate the proceedings in accordance with law. Petitioner shall produce a copy of this judgment along with copy of the writ petition before the second respondent for further steps. Sd/- P. R. RAMACHANDRA MENON, (JUDGE) kmd

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