

Jeeja Rani Vs. Balakrishnan

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Court : Kerala

Decided On : Feb-18-2014

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : Jeeja Rani

Respondent : Balakrishnan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN TUESDAY, THE 18TH DAY OF FEBRUARY 2014 29TH MAGHA, 1935 WP(C).No. 4810 of 2014 (A) ----- PETITIONER : ----- JEEJA RANI, W/O.BIJU, AGED 28 YEARS, ORUCHENNIVILLA HOUSE, ALAKODE P.O., TALIPARAMBA TALUK, KANNUR DT. BY ADV. SRI.P.NARAYANAN RESPONDENT(S): ----- 1. M.R.BALAKRISHNAN, S/O.RAMAKRISHNAN, MANGATTU HOUSE, ALAKODE P.O., TALIPARAMBA TALUK, KANNUR DT. PIN-670 141 2. THE SECRETARY, ALAKODE GRAMA PANCHAYATH, ALAKODE P.O., KANNUR DT. PIN-670 141 3. THE ENVIRONMENTAL ENGINEER, KERALA POLLUTION CONTROL BOARD, DISTRICT OFFICE, GALAXY COMPLEX, KAKKAD ROAD, KANNUR. PIN-670 001 R3 BY SRI.PHILSON MATHEWS, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-02-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: sts WP(C).No. 4810 of 2014 (A) ----- APPENDIX PETITIONER(S)'

EXHIBITS ----- EXHIBIT-P1: COPY OF THE COMPLAINT DATED 25.6.2012 SUBMITTED BEFORE THE 2D RESPONDENT. EXHIBIT-P2: COPY OF THE COMMUNICATION DATED 26.9.2012 ISSUED BY THE 2D RESPONDENT. EXHIBIT-P3: COPY OF THE SALE DEED NO. 2777/1994 OF ALAKODE SRO. EXHIBIT-P4: COPY OF THE DOCUMENT NO. 2364/1/2005 OF ALAKODE SRO. EXHIBIT-P5: COPY OF THE COMPLAINT DATED 30.7.2012 SUBMITTED BY THE PETITIONER TO THE DISTRICT COLLECTOR. EXHIBIT-P6: COPY OF THE COMMUNICATION DATED 27.9.2012 ISSUED BY THE 3D RESPONDENT TO THE 1T RESPONDENT. EXHIBIT-P7: COPY OF

ORDER

DATED 22.5.2013 IN W.P.C. 30244/2013. EXHIBIT-P8: COPY OF THE SKETCH PLAN SUBMITTED BY THE 1T RESPONDENT BEFORE THE 3D RESPONDENT ALONG WITH THE APPLICATION FOR CONSENT TO OPERATE. EXHIBIT-P9: COPY OF THE AFFIDAVIT SUBMITTED BY THE 1T RESPONDENT ALONG WITH THE APPLICATION FOR CONSENT TO OPERATE, BEFORE THE 3D RESPONDENT. EXHIBIT-P10: COPY OF THE COMMON

JUDGMENT

IN W.P. 30244/2012 AND W.P. 17793/2013 DATED 4.9.2013. EXHIBIT-P11: COPY OF THE COMMUNICATION NO. A5/5357/2013 DATED 8.11.2013 AND THE DECISION NO. 118/2013 DATED 31.10.2013 ISSUED BY THE 2D RESPONDENT. EXHIBIT-P12: COPY OF THE STATEMENT DATED 30.10.2013 SUBMITTED BY THE PETITIONER BEFORE THE 3D RESPONDENT. EXHIBIT-P13: COPY OF THE APPLICATION DATED 23.1.2013 SUBMITTED BY THE PETITIONER. EXHIBIT-P14: COPY OF THE COMMUNICATION NO. PCB/KNR/RI ACT/151/2005 DATED 16.1.2014 ISSUED BY THE 3D RESPONDENT. EXHIBIT-P15: COPY OF THE CONSENT TO OPERATE DATED 4.12.2013 ISSUED BY THE 3D RESPONDENT TO THE 1T RESPONDENT. RESPONDENT(S)' EXHIBITS: NIL /TRUE COPY/ sts P.A.TO.JUDGE P.N.RAVINDRAN, J.

----- W.P.(C) No.4810 of 2014 ----- Dated this the 18th day of February, 2014

JUDGMENT

Ext.P15 consent to operate issued by the Environmental Engineer, Kerala State Pollution Control Board, District Office, Kannur under section 25 of the Air (Prevention & Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 to the first respondent herein, is under challenge in this writ petition filed under Article 226 of the Constitution of India by a neighbouring resident.

2. Section 31(1) of the Air (Prevention and Control of Pollution) Act, 1981, stipulates that any person aggrieved by an order made by the State Board under this Act may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the appellate authority constituted by the State Government. Though the period of limitation prescribed for filing an appeal is 30 days from the date of the order, the appellate authority is empowered to condone the delay if sufficient cause is shown. Under section 31B of the Act, a further appeal lies to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010. The petitioner has thus got an appellate remedy before the appellate authority W.P.(C) No.4810/2014 2 constituted by the State Government and a further appeal to the National Green Tribunal. In such circumstances, I am of the opinion that the petitioner should invoke the alternate remedies available to her instead of invoking the jurisdiction of this Court under Article 226 of the Constitution of India. I accordingly decline jurisdiction and dismiss the writ petition leaving open the petitioner's contentions and reserving liberty with her to challenge Ext.P15 in other appropriate proceedings.

P.N.RAVINDRAN, (JUDGE) vps

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