

George vs Assistant Wild Life Warden/Range Forest Officer

George vs Assistant Wild Life Warden/Range Forest Officer

SooperKanoon Citation : sooperkanoon.com/1601913

Court : Kerala

Decided On : Sep-03-2021

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/3049/2021

Appellant : George

Respondent : Assistant Wild Life Warden/Range Forest Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 3RD DAY OF SEPTEMBER 2021 / 12TH BHADRA, 1943
WP(C) NO. 3049 OF 2021 PETITIONER: GEORGE AGED 55 YEARS
S/O. DEVASSIA, KUMBLANIKKAL HOUSE, MUTHUKAD,
CHAKKITTAPARA-673 528 BY ADVS. ALEX.M.SCARIA SMT.SARITHA
THOMAS SMT.T.S.SREEKUTTY RESPONDENT: ASSISTANT WILD
LIFE WARDEN/RANGE FOREST OFFICER PERUVANNAMUZHI,
PERUVANNAMUZHI RANGE OFFICE, CHAKKITTAPARA,
KOZHIKODE-673 528 BY ADV.SRI.T.P.SAJAN, SPECIAL
GOVERNMENT PLEADER(FOREST) THIS WRIT PETITION (CIVIL)
HAVING COME UP FOR ADMISSION ON 03.09.2021, THE COURT ON

THE SAME DAY DELIVERED THE FOLLOWING:
P.V.KUNHIKRISHNAN, J ----- W.P.(C)No.3049 of
2021 ----- Dated this the 3rd day of September 2021

JUDGMENT

According to the petitioner, he is an agriculturist and residing at Chakkittapara village, Kozhikode District. He is an accused in O.R.No.3/2008 of Peruvannamuzhi Forest Range Office. The case against the petitioner is that a country gun was found in a cashew plantation on a hilly track which was a lease land. The definite case of the petitioner is that he has no connection with that country gun and the cashew plantation was an open area situated far away from his residence.

2. In respect of the same set of facts, the Peruvannamuzhi Police registered Crime No.63/2008 and

the same was charge sheeted and tried

light of Ext.P2 judgment, the prosecution initiated by the Forest department based on OR 3/2008 will not stand.

3. According to the petitioner, in Chakkittapara area where the petitioner is doing agricultural activities is affected incessant attacks of vermin wild animals like monkey, peacock, wild boar etc. The farmers of that locality are getting injured out of the wild boar attacks. In such circumstances,

hurdles out of wild boar attacks in his agricultural land, the petitioner made an application before the respondent. The application of the petitioner was considered along with the application of some other

agriculturist. As per Ext.P1, the application of the petitioner

mentioned in Ext.P1 to reject the application is that the petitioner is an accused in OR 3/2008(CC 27/2019 pending before the JFCM-II, Perambra). Aggrieved by the same, this writ petition is filed.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Forest).

5. The learned counsel for the petitioner submitted that the rejection of the application of the petitioner as per Ext.P1 is unsustainable. The learned counsel submitted that simply because the petitioner is involved in a criminal case, there is no bar either in the Act or Rules

the order rejecting the application of the petitioner as per Ext.P1 is not a speaking order and the contentions of the petitioner is not considered while passing the same.

6. The learned Special Government Pleader (Forest) seriously opposed the same. The learned Special Government Pleader submitted that a case is now pending against the petitioner before the JFCM- II, Perambra and if the licence is given to the petitioner to shoot the animals, he will misuse the same. The learned Special Government Pleader submitted that the eligible persons were already granted permission as per Ext.P1 and the petitioner is not entitled for the same. The learned Government Pleader also submitted that, if a person is involved in criminal cases, that itself is a reason for rejecting the application and the respondent is justified in dismissing the application.

7. I perused Ext.P1 order. As far as the rejection of the application of the petitioner is concerned, it is not a speaking order. It is simply stated that the petitioner is involved in OR 3/2008

and therefore his application is reje

the application of the petitioner is rejected without a speaking order, I think the matter can be send back to the authority concerned for reconsideration. The authority concerned can hear the petitioner and consider his arguments and thereafter, reconsider the application in accordance to law.

Therefore, this writ petition is disposed in the following manner: i) Ext.P1 order is set aside, as far as the rejection of the application of the petitioner alone is

concerned. ii) The respondent will reconsider the application of the petitioner after giving an opportunity of hearing to the petitioner. iii) The above exercise should be completed by

the respondent as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. iv) I make it clear that I have not considered the matter on merit and the respondent is free to pass appropriate orders in accordance to law. Sd/- P.V.KUNHIKRISHNAN JUDGE DM APPENDIX OF WP(C) 3049/2021 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE ORDER NO.E21357/2020 DATED 30.01.2021 ISSUED BY THE RESPONDENT. EXHIBIT P2 TRUE COPY OF THE JUDGMENT IN CC 628/2012 DATED 20/02/2019 BY THE JFCM-II, PERAMBRA. RESPONDENTS EXHIBITS : NIL //TRUE COPY// PA TO JUDGE

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com