

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

FRIDAY, THE 25TH DAY OF MARCH 2022 / 4TH CHAITHRA, 1944

WP(C) NO.8509 OF 2022

PETITIONER :-

SASIDHARAN, AGED 69 YEARS
S/O. KUTTAN PILLAI, KALEECKAL HOUSE,
THEKKEKARA VILLAGE, MAVELIKARA,
ALAPPUZHA DISTRICT - 690 101.

BY ADVS.
S.SHANAVAS KHAN
S.INDU

RESPONDENTS :-

- 1 THE CITY POLICE COMMISSIONER
OFFICE OF THE CITY POLICE COMMISSIONER,
KOLLAM - 691 574
- 2 THE STATION HOUSE OFFICER
SOORANAD POLICE STATION, KARUNAGAPPALLY,
KOLLAM DISTRICT - 690 522
- 3 THE KERALA STATE EX-SERVICES LEAGUE
REGISTRATION NO. 11
EX SERVICES LEAGUE BHAVAN, ANAYADI UNIT,
SOORANAD NORTH, KOLLAM - 690 561

BY ADVS.
THOMAS ABRAHAM
MERCIAMMA MATHEW
ASWIN.P.JOHN
R.ANANTHAPADMANABAN
SRI.T.K.SHAJAHAN, SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25.03.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Dated this the 25th day of March, 2022

This writ petition is filed seeking the following reliefs :-

- “i). Issue a Writ of mandamus or any other writ, order or direction directing the 1st and 2nd respondents to grant adequate police protection to the petitioner and his workers from the threat of 3rd respondent and its henchmen for installing machineries and running a hot mix plant namely 'Metaguard Engineers and Contractors' in the property having an extent of 85 Ares 92 sq.mts situated in Re-survey Nos.576/10, 576/10-2, 576/11-2, 576/2 and 576/2-2 of Sooranad North Village.
- ii) Issue a Writ of mandamus or any other writ, order or direction directing the 2nd respondent to consider Ext.P9 and to afford adequate police protection as prayed for.”

2. Heard the learned counsel for the petitioner, the learned Government Pleader as well as the learned counsel appearing for the 3rd respondent.

3. It is submitted by the learned counsel for the petitioner that the petitioner had obtained consent to establish a hot mix plant in 85 Ares and 92 sq.mts. of property situated in Re-survey Nos.576/10, 10-2, 11-2, 2 and 2-2 of Sooranad North Village. It is submitted that by Ext.P5, an installation permit has also been granted to the petitioner by the Panchayat on 28.2.2022. The learned counsel for the petitioner further submits that when the

machinery and the equipment for the installation were brought to the site, the 3rd respondent and other residents of the locality have obstructed the unloading of the materials and the erection of the equipments and the unit.

4. The 3rd respondent has placed a counter affidavit on record. The learned counsel for the 3rd respondent submits that there are serious concerns arising out of the installation of the hot mix plant in a residential locality and that the residents of the locality had staged a peaceful protest against the plant in view of the fact that pollution is sure to arise out of such operation. It is further submitted that the 3rd respondent is not physically obstructing or creating any threat or violence in the vicinity and that the contentions to the said effect are absolutely unwarranted and unsustainable.

5. The learned Government Pleader submits, on instructions, that there are apprehensions raised by the residents of the locality with regard to the pollution which may occur due to the installation of a hot mix plant. It is, however, submitted that there is no law and order situation prevalent in the area.

6. Having considered the contentions advanced, I notice that the petitioner has obtained Ext.P5 permit for installation of a hot mix plant in the property. Ext.P1 is the consent to establish

issued by the Pollution Control Board and Ext.P5 is the consent granted by the Panchayat for installation.

In the above view of the matter, while the 3rd respondent and the residents of the locality may have objections with regard to Ext.P5 or the installation of the hot mix plant, I am of the opinion that it would not be possible for them to obstruct the unloading of the machinery in the light of Exts.P1 and P5. In case, there is any physical obstruction caused to the unloading of the machinery or the installation or erection of the plant, the petitioner may inform the Station House Officer, who shall provide adequate and meaningful protection to the petitioner. However, this is without prejudice to the rights of the 3rd respondent or any other aggrieved residents of the locality from taking up the matter before the appropriate authorities in accordance with law.

This writ petition is ordered accordingly.

**Sd/-
ANU SIVARAMAN
JUDGE**

APPENDIX OF WP(C) 8509/2022

PETITIONER EXHIBITS

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| Exhibit P1 | TRUE COPY OF THE CONSENT TO ESTABLISH DATED 17-08-2019 ISSUED BY THE ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD, DISTRICT OFFICE, KOLLAM |
| Exhibit P2 | TRUE COPY OF THE JUDGMENT DATED 13-08-2021 IN W.P(C) NO. 14468 OF 2021 OF THIS HON'BLE COURT. |
| Exhibit P3 | TRUE COPY OF THE ORDER DATED 13-01-2022 IN W.P (C) NO 1001 OF 2022 OF THIS HON'BLE COURT. |
| Exhibit P4 | TRUE COPY OF THE RESOLUTION NO 8/01 DATED 28-02-2022 OF SOORANAD NORTH GRAMA PANCHAYAT |
| Exhibit P5 | TRUE COPY OF THE ORDER NOS1-1386/2022 DATED 28-02-2022 OF THE SECRETARY, SOORANAD NORTH GRAMA PANCHAYAT |
| Exhibit P6 | TRUE COPY OF THE PHOTOGRAPH EVIDENCING THE CONDUCTING OF PROTEST IN FRONT OF THE PROPOSED UNIT. |
| Exhibit P7 | TRUE COPY OF THE FACE BOOK POST OF HAREENDRAKUMAR ANAYADI AGAINST THE HOT MIX PLAN. |
| Exhibit P8 | TRUE COPY OF THE PHOTOGRAPH INDICATING THE NOTICE OF STRIKE THAT ARE POSTED IN THE GATE OF THE PROPOSED UNIT |
| Exhibit P9 | TRUE COPY OF THE PETITION DATED 07-03-2022 SUBMITTED BY PETITIONER BEFORE THE 2ND RESPONDENT |
| Exhibit P10 | TRUE COPY OF THE RECEIPT DATED 08-03-2022 EVIDENCING THE ACKNOWLEDGEMENT OF EXT.P9 BY THE OFFICE OF 2ND RESPONDENT. |
| Exhibit P11 | TRUE COPY OF THE CATALOGUE OF THE MACHINERY THAT EVIDENCES THE NATURE OF THE MACHINERLES PROPOSED TO BE INSTALLED. |