

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 7TH DAY OF APRIL 2022 / 17TH CHAITHRA, 1944

WP(C) NO. 13342 OF 2021

PETITIONERS:

- 1 STEPHAN MATHEW
 AGED 38 YEARS
 S/O. M. M. MATHEW, MANALODY HOUSE, PULINTHANAM P.
 O., PARAMBANCHERY, MUVATTUPUZHA, ERNAKULAM -
 686671, MOB - 9072181619.

- 2 K. U. THOMAS
 AGED 70 YEARS
 S/O. UTHUPPAN, KAVATTUKUZHI HOUSE, PULINTHANAM P.
 O., PARAMBANCHERY, MUVATTUPUZHA, ERNAKULAM -
 686671, MOB - 9847798111.

- 3 JIPSON JOSEPH
 AGED 24 YEARS
 S/O. K. C. JOSEPH, KANDOTH HOUSE, PULINTHANAM P.
 O., PARAMBANCHERY, MUVATTUPUZHA, ERNAKULAM -
 686671, MOB - 9946786863.

- 4 AKSHAY BIJU
 AGED 21 YEARS
 S/O. BIJUMON V. D., VELLAMTHADATHIL HOUSE,
 PULINTHANAM P. O., PARAMBANCHERY, MUVATTUPUZHA,
 ERNAKULAM - 686671, MOB - 9526334407.

BY ADVS.
SONNYMON K. MATHEW
GANESH.S.PAI

RESPONDENTS :

- 1 THE SECRETARY,
POTHANICAD GRAMA PANCHAYATH, POTHANICAD P. O.,
PIN - 686671.
- 2 THE VILLAGE OFFICER
ENANALLOOR VILLAGE OFFICE, POTHANICAD P. O., PIN
- 686671.
- 3 DISTRICT MEDICAL OFFICER (HEALTH)
DISTRICT MEDICAL OFFICE, PARK AVE, MARINE DRIVE,
ERNAKULAM, PIN - 682011.
- 4 THE ENVIRONMENTAL ENGINEER
KERALA STATE POLLUTION CONTROL BOARD, REGIONAL
OFFICE, KADAVANTHARA, ERNAKULAM - 682020.
- 5 THE GEOLAGIST
DEPARTMENT OF MINING AND GEOLOGY, CIVIL STATION,
KAKKANADU - 682030.
- 6 THE GENERAL MANAGER
DISTRICT INDUSTRIES CENTRE (DIC), KUNNUMPURAM,
KAKKANADU - 682030.
- 7 THE STATION HOUSE OFFICER
POTHANICAD POLICE STATION - 686671.
- 8 THE DISTRICT COLLECTOR
COLLECTORATE, KAKKANADU - 682030.
- 9 T. V. MUJEEB
THELAMPURAM HOUSE, ALLAPRA P. O., PERUMBAVOOR,
PIN - 683556, MOB - 9947702627, PARTNER.
- 10 C. P. RAFEEQ
CHIRACKAKKUDY HOUSE, ALLAPRA P. O., PERUMBAVOOR,
PIN - 683556, PARTNER.

- 11 C. P. JALAL
CHIRACKAKKUDY HOUSE, ALLAPRA P. O., PERUMBAVOOR,
PIN - 683556, MOB - 9946885077, PARTNER.
- 12 C. P. ANUS
CHIRACKAKKUDY HOUSE, ALLAPRA P. O., PERUMBAVOOR,
PIN - 683556, PARTNER.
- 13 C. P. MUHAMMED FAZAL
CHIRACKAKKUDY HOUSE, ALLAPRA P. O., PERUMBAVOOR,
PIN - 683556, PARTNER.

BY ADVS.
BABU JOSEPH KURUVATHAZHA
K.R.PRATHISH
K.S.ARCHANA
R.LAKSHMI NARAYAN
R.RANJANIE

OTHER PRESENT:

T.K.SHAJAHAN-SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 21.03.2022, ALONG WITH WP(C).1975/2022,
2039/2022, THE COURT ON 07.04.2022 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 7TH DAY OF APRIL 2022 / 17TH CHAITHRA, 1944

WP(C) NO. 1975 OF 2022

PETITIONERS:

P.B BOARDS
REP BY ITS MANAGING PARTNER, JALAL C .P,
AGED 43, SON OF PAREED, CHIRACKAKUDI HOUSE,
VENGOLA VILLAGE, KUNNATHUNADU TALUK, ALLAPRA P.O.,
PERUMBAVOOR, ERNAKULAM DISTRICT, PIN - 683556

BY ADVS.
K.R.PRATHISH
P.K.SREEVALSAKRISHNAN
R.LAKSHMI NARAYAN
R.RANJANIE

RESPONDENTS:

- 1 DEPUTY SUPERINTENDENT OF POLICE
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE
MUVATTUPUZHA, PIN - 686661
- 2 STATION HOUSE OFFICER
POTHANICAD POLICE STATION, PAINGATTOOR ROAD,
POTHANICAD, ERNAKULAM DISTRICT, PIN - 686671
- 3 STEPHEN MATHEW
SON OF MATHEW, MANALODYIL HOUSE, PULINTHANAM
P.O., ENANALLOOR VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM, PIN - 686671

- 4 BIJU DAMODHARAN
SON OF DAMODHARAN, VELLAMTHADATHIL HOUSE,
ENANALLOOR VILLAGE PARAMBACHERY KARA
MUVATTUPUZHA TALUK, ERNAKULAM, PIN - 686671
- 5 AKSHAY BIJU
S/O BIJU, VELLAMTHADATHIL HOUSE,
ENANALLOOR VILLAGE, PARAMBACHERY KARA,
MUVATTUPUZHA TALUK, ERNAKULAM, PIN - 686671
- 6 JOSEPH CHACKO
S/O CHACKO KANDOTHU HOUSE,
ENANALLOOR VILLAGE, PARAMBACHERY KARA,
MUVATTUPUZHA TALUK, ERNAKULAM, PIN - 686671
- 7 SAJI CHACKO
S/O CHACKO, KANDOTHU HOUSE, ENANALLOOR VILLAGE,
PARAMBACHERY KARA, MUVATTUPUZHA TALUK, ERNAKULAM,
PIN - 686671
- 8 NOUFAL
S/O KASIM, MULLASSERRY HOUSE, PALLARIMANGALAM
P.O.,
ADIVADU, ERNAKULAM, PIN - 686671
- 9 SHAHUL
S/OMUHAMMED, MANJALAMKKUNNEL HOUSE,
PALLARIMANGALAM P.O., ADIVADU, ERNAKULAM, PIN -
686671
- 10 ANSIF ABUDL RAHMAN
S/O ABDUL RAHMAN, KAMMALAYIL HOUSE,
PALLARIMANGALAM P.O.,
ADIVADU, ERNAKULAM, PIN - 686671
- 11 SHAMEER MYTHEEN
S/O MYTHEEN, KIZHAKKEL HOUSE, PALLARIMANGALAM
P.O.,
ADIVADU, ERNAKULAM, PIN - 686671

12 ABAAN
S/O MOITHU, KUNJATTU HOUSE, PALLARIMANGALAM P.O.,
ADIVADU, ERNAKULAM, PIN - 686671

13 ALI
THANIKUNNEL HOUSE, PARAMBANCHERY KARA
MUVATTUPUZHA TALUK, ERNAKULAM, PIN - 686671

BY ADV SONNYMON K. MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 21.03.2022, ALONG WITH WP(C).13342/2021 AND
CONNECTED CASES, THE COURT ON 07.04.2022 DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 7TH DAY OF APRIL 2022 / 17TH CHAITHRA, 1944

WP(C) NO. 2039 OF 2022

PETITIONERS:

TVM BOARDS
REP BY ITS MANAGING PARTNER, T. V MUJEEB,
AGED 48, SON OF VEERAN, THELAMPURAM HOUSE,
ALLAPRA P.O., PERUMBAVOOR, ERNAKULAM DISTRICT, PIN
- 683556

BY ADVS.
K.R.PRATHISH
P.K.SREEVALSAKRISHNAN
R.LAKSHMI NARAYAN
R.RANJANIE

RESPONDENTS:

- 1 DEPUTY SUPERINTENDENT OF POLICE
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE
MUVATTUPUZHA, PIN - 686661
- 2 STATION HOUSE OFFICER
POTHANICAD POLICE STATION, PAINGATTOOR ROAD,
POTHANICAD, ERNAKULAM DISTRICT, PIN - 686671
- 3 STEPHEN MATHEW
SON OF MATHEW, MANALODYIL HOUSE, PULINTHANAM
P.O., ENANALLOOR VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM, PIN - 686671

- 4 BIJU DAMODHARAN
SON OF DAMODHARAN, VELLAMTHADATHIL HOUSE,
ENANALLOOR VILLAGE PARAMBANCHERY KARA
MUVATTUPUZHA TALUK, ERNAKULAM, PIN - 686671
- 5 AKSHAY BIJU
SON OF BIJU, VELLAMTHADATHIL HOUSE, ENANALLOOR
VILLAGE,
PARAMBACHERY KARA, MUVATTUPUZHA TALUK, ERNAKULAM,
PIN - 686671
- 6 JOSEPH CHACKO
SON OF CHACKO KANDOTHU HOUSE,
ENANALLOOR VILLAGE, PARAMBACHERY KARA,
MUVATTUPUZHA TALUK, ERNAKULAM, PIN - 686671
- 7 SAJI CHACKO
S/O CHACKO, KANDOTHU HOUSE, ENANALLOOR VILLAGE,
PARAMBACHERY KARA, MUVATTUPUZHA TALUK, ERNAKULAM,
PIN - 686671
- 8 NOUFAL
SON OF KASIM, MULLASSERRY HOUSE, PALLARIMANGALAM
P.O.,
ADIVADU, ERNAKULAM, PIN - 686671
- 9 SHAHUL
SON OF MUHAMMED, MANJALAMKKUNNEL HOUSE,
PALLARIMANGALAM P.O., ADIVADU, ERNAKULAM, PIN -
686671
- 10 ANSIF ABUDL RAHMAN
SON OF ABDUL RAHMAN, KAMMALAYIL HOUSE,
PALLARIMANGALAM P.O.,
ADIVADU, ERNAKULAM, PIN - 686671
- 11 SHAMEER MYTHEEN
SON OF MYTHEEN, KIZHAKKEL HOUSE, PALLARIMANGALAM
P.O.,
ADIVADU, ERNAKULAM, PIN - 686671

12 ABAAN
S/O MOITHU, KUNJATTU HOUSE, PALLARIMANGALAM P.O.,
ADIVADU, ERNAKULAM, PIN - 686671

13 ALI
THANIKUNNEL HOUSE, PARAMBANCHERY KARA
MUVATTUPUZHA TALUK, ERNAKULAM, PIN - 686671

BY ADV SONNYMON K. MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 21.03.2022, ALONG WITH WP(C).13342/2021 AND
CONNECTED CASES, THE COURT ON 07.04.2022 DELIVERED THE
FOLLOWING:

ANU SIVARAMAN, J.

=====

**W.P.(C).Nos.13342 of 2021,
1975 & 2039 of 2022**

=====

Dated this the 7th day of April, 2022

JUDGMENT

1. Heard the learned counsel for the petitioners, the learned Government Pleader, the learned standing counsel appearing for the Panchayat and the learned standing counsel appearing for the Pollution Control Board.

2. The prayers in W.P.(C).No.13342/2021 is as follows:-

i) Issue a writ of Mandamus or any other appropriate writ orders or directions commanding to the 6th respondent to immediately revoke Exhibit-P5 Acknowledgement Certificates' crookedly issued for M/s PB Boards by Acknowledgment No. KLMSME-3929/2021 on 28/05/2021 and M/s TVM Boards by Acknowledgment No. KLMSME-3942/2021 on 30/05/2021 to set up hazardous twin plywood manufacturing units at Parambanchery, in Pothanicad Grama Panchayath, in Muvattupuzha Taluk in Ernakulam District.

ii) To issue a Writ in the nature of mandamus directing all banks and all - other financial institutions, to abstain from issuing any loans to the respondents No. 9 to 13 based on Exhibit-P5 Certificates.

iii) To issue a Writ in the nature of mandamus directing all the respondents 1 to 8 to initiate necessary urgent actions to shut down the proposed plywood units at Parambanchery with immediate effect."

3. While W.P.(C).Nos.1975/2022 and 2039 of 2022 are filed by M/s.P.B. Boards and M/s.TVM Boards respectively, seeking directions to extent police protection to the petitioners, their workers, vehicles etc. for developing the property for construction of buildings as permitted by the Pollution Control Board and as covered by the Acknowledgment Certificates under the Kerala Micro Small and Medium Enterprises Facilitation Act, 2019 (hereinafter referred to as the "MSME Act" for short).

4. The learned counsel for the petitioner in W.P.(C).No.13342/2021 would contend that the petitioners in the other writ petitions have obtained fraudulent Acknowledgment Certificates from the Department of Industries and Commerce for starting plywood manufacturing units in the Pothanicadu Grama Panchayat and that the emissions from the plywood units are likely to impact the immediate surroundings and adversely affect the health of the residents of the locality. It is submitted that mass representations had been submitted by the petitioners before the various authorities and that respondents 9 to 13 have managed to secure fraudulent acknowledgment certificates and that the petitioner is therefore entitled to the reliefs as sought for. With regard to

the writ petitions filed by the two partnership firms, it is contended that the partnership firms are not registered and that therefore they cannot maintain the writ petitions filed by them as W.P.(C).No.1975/2022 and 2039/2022.

5. I have considered the contentions advanced. It is an admitted fact that the petitioners in W.P.(C).Nos.1975/2022 and 2039/2022 have obtained acknowledgment certificates under the MSME Act. Section 10 of the MSME Act specifically provides as follows:-

“10. Overriding effect of this Act on other laws.---(1) The provisions of this Act shall have overriding effect, notwithstanding anything inconsistent therewith contained in any other law, for the time being in force. (2) In particular and without prejudice to the generality of the foregoing provisions of this Act, such provisions shall have effect notwithstanding anything inconsistent therewith contained in the following enactments and the provisions of these enactments shall be read as amended in conformity with the provisions of this Act, namely:-

1. The Kerala Panchayat Raj Act, 1994 (13of1994)
2. The Kerala Municipality Act, 1994 (20of 1994)
3. The Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960)
- 4.The Kerala Lift and Escalators Act, 2013 (18 of 2013)
5. Travancore - Cochin Public Health Act, 1955 (XVI of 1955)
6. Madras Public Health Act, 1939 (3 of 1939)”

The effect of acknowledgment certificates issued under the MSME Act is also specifically provided in Section 6 thereof.

6. In the above view of the matter, in view of the admitted fact that the petitioners in W.P.(C).No.1975/2022 and 2039/2022 have obtained acknowledgment certificates in terms of the Kerala Micro Small and Medium Enterprises Facilitation Act, I am of the opinion that the prayers in W.P.(C).No.13342/2021 cannot be allowed. Apart from stating that the firms are not registered, no material is placed on record in the writ petitions filed by the party respondents. The consent to establish as well as the acknowledgment certificates have been duly issued in the name of the firms and the petitioners have sued as the firms represented by its Managing Partners. The presumption is therefore, plainly that the firms are duly registered firms. In the absence of any material, I am not inclined to accept the contention that the firms are not registered and therefore cannot maintain the writ petitions. Apart from stating that the acknowledgment certificates are fraudulently obtained, there is no material produced before me except the representation submitted by the petitioner in W.P.(C).No.13342 of 2021 to

substantiate the above contention. W.P.(C).No.13342 of 2021 therefore fails and the same is accordingly dismissed.

7. There will, resultantly, be a direction in W.P.(C).No.1975/2022 and 2039/2022 that the 2nd respondent shall afford adequate protection to the petitioners in the said writ petitions to carry out the permitted activities under Exhibits P2 and P3 and shall afford adequate protection against any attack or obstruction from the party respondents or anybody claiming through them.

Sd/-
Anu Sivaraman, Judge

sj

APPENDIX OF WP(C) 13342/2021

PETITIONER EXHIBITS

- Exhibit P1 THE PHOTOS OF UPROOTED RUBBER TREES AND ILLEGAL LAND CONVERSIONS.
- Exhibit P2 THE TRUE COPY OF THE MASS REPRESENTATION DATED 18.05.2021 SUBMITTED BY THE PETITIONERS TO THE 1ST RESPONDENT.
- Exhibit P3 THE TRUE PHOTOSTAT COPY OF THE RESOLUTION NO.11(1) PASSED BY THE GOVERNING BODY OF THE POTHANICAD GRAMA PANCHAYATH DATED 15.06.2021.
- Exhibit P4 THE TRUE PHOTOSTAT COPY OF THE DIRECTION DATED 01.06.2021 HAD MADE BY THE 8TH RESPONDENT TO THE 1ST RESPONDENT.
- Exhibit P5 THE TRUE PHOTOSTAT COPIES OF THE ACKNOWLEDGEMENT CERTIFICATE FOR M/S PB BOARDS BY ACKNOWLEDGMENT NO.KLMSME-3929/2021 ON 28.05.2021 AND M/S TVM BOARDS BY ACKNOWLEDGEMENT NO.KLMSME-3942/2021 ON 30.05.2021 HAD CROOKEDLY ISSUED BY THE 6TH RESPONDENT.
- Exhibit P6 THE TRUE PHOTOSTAT COPY OF NOD FOR THE CONSENT TO ESTABLISH ON 11.03.2021 HAD ISSUED BY THE 4TH RESPONDENT.
- Exhibit P7 THE TRUE PHOTOS OF THE ANGANVADY NO.47.
- Exhibit P8 THE TRUE PHOTOS OF THE AGITATIONS PERFORMED BY THE RESIDENTS FROM WARD NO.1 OF POTHANICAD GRAMA PANCHAYATH.

APPENDIX OF WP(C) 1975/2022

PETITIONER EXHIBITS

- Exhibit1 TRUE COPY OF THE BASIC TAX RECEIPT DATED 19.01.2021 OF THE PROPERTY OF THE YEAR 2020-2021 ISSUED BY THE ENANALLOOR VILLAGE.
- Exhibit2 TRUE COPY OF THE CONSENT TO ESTABLISH ISSUED BY THE POLLUTION CONTROL BOARD DATED 11.02.2021
- Exhibit3 TRUE COPY OF THE CERTIFICATE ISSUED FROM THE DISTRICT INDUSTRIES CENTER DATED 28.05.2021
- Exhibit4 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 01.07.2021
- Exhibit5 TRUE COPY OF THE RECEIPT ACKNOWLEDGING THE EXT.P4 COMPLAINT DATED 01.07.2021
- Exhibit6 TRUE COPY OF THE STOP MEMO ISSUED BY THE VILLAGE OFFICER, ENANALLOOR DATED 03.07.2021
- Exhibit7 TRUE COPY OF THE ORDER OF THE RDO, MUVATTUPUZHA DATED 27.07.2021
- Exhibit8 TRUE COPY OF THE JUDGMENT OF HONâ€™BLE HIGH COURT OF KERALA IN WP (C) NO.18100 OF 2021 DATED 22.12.2021
- Exhibit9 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 11.01.2022
- Exhibit10 TRUE COPY OF THE RECEIPT ACKNOWLEDGING THE EXT.P9 COMPLAINT DATED 11.01.2022

APPENDIX OF WP(C) 2039/2022

PETITIONER EXHIBITS

- Exhibit1 TRUE COPY OF THE BASIC TAX RECEIPT DATED 19.01.2021 OF THE PROPERTY OF THE YEAR 2020-2021 ISSUED BY THE ENANALLOOR VILLAGE
- Exhibit2 TRUE COPY OF THE CONSENT TO ESTABLISH ISSUED BY THE POLLUTION CONTROL BOARD DATED 11.03.2021
- Exhibit3 TRUE COPY OF THE CERTIFICATE ISSUED FROM THE DISTRICT INDUSTRIES CENTER DATED 30.05.2021
- Exhibit4 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 01.07.2021
- Exhibit5 TRUE COPY OF THE RECEIPT ACKNOWLEDGING THE EXT.P4 COMPLAINT DATED 01.07.2021
- Exhibit6 TRUE COPY OF THE STOP MEMO ISSUED BY THE VILLAGE OFFICER, ENANALLOOR DATED 03.07.2021
- Exhibit7 TRUE COPY OF THE ORDER OF THE RDO, MUVATTUPUZHA DATED 27.07.2021
- Exhibit8 TRUE COPY OF THE JUDGMENT OF HONABLE HIGH COURT OF KERALA IN WP (C) NO.18209 OF 2021 DATED 22.12.2021
- Exhibit9 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 11.01.2022

W.P.(C).No.13342/21 & con.cases

18

Exhibit10

TRUE COPY OF THE RECEIPT ACKNOWLEDGING
THE EXT.P9 COMPLAINT DATED 11.01.2022

True copy

PS to Judge

