

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE ACTING CHIEF JUSTICE MR.ANTONY DOMINIC

&

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 6TH DAY OF FEBRUARY 2018 / 17TH MAGHA, 1939

WA.No. 1608 of 2016 IN WPC. 14261/2016
AGAINST THE JUDGMENT IN WP(C) 14261/2016 of HIGH COURT OF KERALA DATED
29-07-2016

APPELLANT/PETITIONER

SHERIFF.A.H
S/O HYDROSE, AGED 50 YEARS,
ETTUKATTIL VEEDU, P.O. EDATHALA NORTH,
ALUVA, ERNAKULAM DIST.,
PIN-683564.

BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SMT.M.P.SHERIN
SRI.THOMAS P.KURUVILLA

RESPONDENT(S)/RESPONDENTS:

1. THE STATE OF KERALA
REPRESENTED BY THE ADDL. CHIEF SECRETARY TO GOVERNMENT,
IRRIGATION DEPARTMENT (NOW WATER RESOURCES
DEPARTMENT), GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
2. THE DISTRICT COLLECTOR,
ERNAKULM DISTRICT, CIVIL STATION,
KAKKANAD, PIN-682030.
3. A.M. SAINUDHEEN,
AGED 53 YEARS, S/O MOIDEEN,
ALAPPURATH HOUSE, PERIPARA,
PEZHAKKAPILLY PO, MUVATTUPUZHA-686674.
4. THE EXECUTIVE ENGINEER,
P.V.I.P.DIVISION II, IRRIGATION DEPARTMENT,
THOTTAKKATTUKARA PO, ALUVA-683108.

R3 BY ADV. SRI.PAUL K.VARGHESE
BY GOVERNMENT PLEADER SRI.SURIN GEORGE IPE

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 06-02-2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, Ag. C.J.
&
DAMA SESHADRI NAIDU, J.

W. A. No.1608 of 2016

Dated this the 6th day of February, 2018

JUDGMENT

Antony Dominic, Ag. C.J.

Heard the learned Senior Counsel for the appellant, learned Government Pleader and the learned counsel appearing for the third respondent.

2. The appellant filed the writ petition aggrieved by Ext.P18 order issued by the District Collector, Ernakulam, imposing a prohibition on the working of a quarry owned by the appellant. A reading of Ext.P18 shows that the said order was issued mainly for non-compliance of Section 40 of the Kerala Irrigation and Water Conservation Act, 2003, (for short, "the Act"). By the judgment under appeal, the learned single Judge upheld Ext.P18 and it is, therefore, this appeal is filed.

3. We find that during the pendency of the appeal,

the appellant has obtained No Objection Certificate as contemplated in Section 40 of the Act, by order dated 27.09.2017. Acting upon the No Objection Certificate, the District Collector, Ernakulam, has also issued proceedings dated 24.10.2017 withdrawing Ext.P18. Now that Section 40 of the Act has been complied with and Ext.P18 has been withdrawn, neither Ext.P18 nor the judgment under appeal can stand in the way of the appellant.

4. However, the third respondent contends that the No Objection Certificate as also the proceedings dated 24.10.2017 issued by the District Collector are illegal and without hearing him. According to us, if there is substance in what is contended by him, that will only give him a cause of action to impugn the No Objection Certificate as also the proceedings of the District Collector and it is up to him to work out his remedies in accordance with law.

5. Therefore, this appeal is disposed of clarifying the position as above and leaving it open to the third respondent

to work out his remedies against the No Objection Certificate and the proceedings of the District Collector in accordance with law.

Sd/-
ANTONY DOMINIC
ACTING CHIEF JUSTICE

Sd/-
DAMA SESHADRI NAIDU
JUDGE

kns/-

//TRUE COPY//

P.S. TO JUDGE