

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR. HRISHIKESH ROY

&

THE HONOURABLE MR. JUSTICE A.K. JAYASANKARAN NAMBIAR

Thursday, the 18th day of July 2019/27th Ashadha, 1941

WP(C) No.19580/2019

PETITIONER

M.K.SALIM,, AGED 62 YEARS
S/O. HAJI M.K. AHAMED KUNJU, HAJI MANZIL, MAIN ROAD, KOLLAM-691001.

RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
2. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM-695001.
3. THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA),
KSRTC BUS TERMINAL COMPLEX, 4TH FLOOR, THAMPANOOR, THIRUVANANTHAPURAM-
695001, REPRESENTED BY ITS MEMBER SECRETARY.
4. KERALA STATE COASTAL ZONE MANAGEMENT AUTHORITY (KCZMA),
THIRUVANANTHAPURAM. REPRESENTED BY ITS SECRETARY 695001
5. THE EXECUTIVE ENGINEER,
INLAND NAVIGATION OFFICE, KALLADA HOUSE, ASRAMOM, KOLLAM-691001.
6. THE SECRETARY,
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, CORPORATION OFFICE, MUSEUM
JUNCTION, THIRUVANANTHAPURAM-695001.
7. MR. NISHAD M.A.,
DIRECTOR, M/S. LULU INTERNATIONAL SHOPPING MALL PVT. LTD., 34/1000, NH-
47, EDAPPALLY, ERNAKULAM-688007.
8. THE UNION OF INDIA,
REPRESENTED BY ITS PRINCIPAL SECRETARY, MINISTRY OF ENVIRONMENT AND
FOREST, PARYAVARAN BHAWAN, NEW DELHI-110014.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the ongoing construction of LULU MALL at the instance of 7th respondent and on the strength of Ext.P1 Environmental Clearance, till the disposal of the W.P .

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S C.UNNIKRISHNAN (KOLLAM), SHRI. ABDUL JABBARUDEEN.M, SHRI.GAJENDRA SINGH RAJPUROHIT, JANE MARIA TOMY, JOHNSON GOMEZ, M.R.SUDHEENDRAN, SANJAY JOHNSON, Advocates for the petitioner and GOVERNMENT PLEADER for R1,R2 and R5, Advocate SRI.M.P.SREEKRISHNA for R3,SRI.M.P.PRAKASH, STANDING COUNSEL FOR R4,SRI.P.K.MANOJ KUMAR, STANDING COUNSEL FOR R6 ,SRI.JOSEPH ROY JOSE,CENTRAL GOVERNMENT COUNSEL FOR R8, the court passed the following:

**HRISHIKESH ROY, C.J.
&
A.K. JAYASANKARAN NAMBIAR, J.**

W.P.(C).NO.19580 OF 2019

Dated this the 18th day of July, 2019

ORDER

Hrishikesh Roy, C.J.

Heard Sri.C. Unnikrishnan, the learned counsel for the petitioner. Also heard Sri.M.P. Prakash, the leaned Standing Counsel for the *Kerala State Coastal Zone Management Authority* [KCZMA] [respondent No.4]. The *Thiruvananthapuram Municipal Corporation* [respondent No.6] is represented by Sri.P.K. Manoj Kumar. The Central Government Counsel Sri.Joseph Roy Jose appears for the Union of India [respondent No.8].

2. This Public Interest Litigation is initiated with the projection that the *Environmental Clearance* for the multi-storied Shopping Mall in the Kadakampally Village in Thiruvananthapuram Taluk of the respondent No.7 was unauthorisedly issued on 4.10.2016 [Ext.P1] by the *State Environment Impact Assessment Authority* [SEIAA], Kerala. The built-up area of the project measures 2,32,400 sq. m. with a height of 44.9 m., but *Environmental Clearance* has been granted by treating the large project as falling under *Category 'B'* in *Clause 8(b)* of the *Schedule of the Environment Impact Assessment Notification, 2006* [hereinafter referred to as the "*2006 Notification*"].

W.P.(C).No.19580/2019

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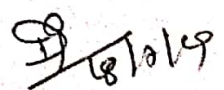
3. Adverting to the *Clause 2* of the *2006 Notification* read with the *Schedule*, the petitioner points out that the jurisdiction of the State authority is only for a *Category 'B'* project with smaller dimension (within *20,000 sq. m.* to *1,50,000 sq. m.*) and since the 7th respondent's project measures *2,32,400 sq. m.* the project cannot be categorised under *'B' Category* and the *Environmental Clearance* can be considered only by the Ministry of Environment and Forest and not by the State Authority.

4. Considering the above projection, let notice be issued to the respondents. The learned Government Pleader Sri.Aravinda Kumar Babu accepts notice for respondent Nos.1, 2 and 5. Sri.M.P. Sreekrishna accepts notice for the *State Environment Impact Assessment Authority* [SEIAA] [respondent No.3], Sri.M.P. Prakash, the learned Standing Counsel represents the KCZMA [respondent No.4]. Sri.P.K.Manoj Kumar, the learned Standing Counsel accepts notice for the *Thiruvananthapuram Municipal Corporation* [respondent No.6]. Sri.Joseph Roy Jose, the learned Central Government Counsel represents the Union of India [respondent No.8]. The petitioner to ensure service of notice by special messenger on the respondent No.7. Post on 25.7.2019.

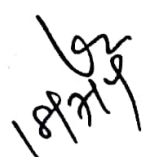
Sd/-
HRISHIKESH ROY,
CHIEF JUSTICE

Sd/-
A.K JAYASANKARAN NAMBIAR,
JUDGE

-TRUE COPY-


ASSISTANT REGISTRAR




prp/18/7/19

WP(C) 19580/2019

EXHIBIT-P1 : True copy of the EC No.1047/SEIAA/ECI/899/2016 dated 4.10.2016 issued by the SEIAA