

Abdul Sabith.K.A vs The State Of Kerala on 27 July, 2022

Author: N.Nagaresh

Bench: N.Nagaresh

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE N.NAGARESH
WEDNESDAY, THE 27TH DAY OF JULY 2022 / 5TH SRAVANA,
1944
WP(C) NO. 24092 OF 2022
PETITIONER

ABDUL SABITH.K.A.,
AGED 24 YEARS
S/O.ABDUL LATHEEF, RESIDING IN THE ADDRESS
KARUVALLIL HOUSE, JUDGE MUKKU, THRIKKAKKARA
NORTH P.O., ERNAKULAM DISTRICT-682 021.
BY ADV G.SREEKUMAR (CHELUR)

RESPONDENTS

- 1 THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE
GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
DISTRICT-695 001.
- 2 THE THRIKKAKKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, THRIKKAKKARA
P.O., ERNAKULAM DISTRICT-680 030.
- 3 THE SECRETARY, THRIKKAKKARA MUNICIPALITY,
THRIKKAKKARA P.O., ERNAKULAM DISTRICT-682
030.

OTHER PRESENT:

SRI.SYAMANTHAK B S, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 27.07.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.P(C) No.24092 of 2022 2

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JUDGMENT

Dated this the 27th day of July, 2022 The petitioner is before this Court aggrieved by Ext.P12 order

of the Municipality directing their Health Inspector to shut down the Cold Storage run by the petitioner.

2. The petitioner states that his father was conducting a business in sale of meat in the Municipal area. There was no slaughter house or any other allied activities. The petitioner took over the business later. The petitioner has obtained licence under Section 448 of the Kerala Municipality Act, 1994.

3. The petitioner states that now Ext.P12 order has been issued directing to shut down the Cold storage of the petitioner on the ground that the petitioner has not taken any licence. The petitioner states that the petitioner is not conducting any] slaughter house. The petitioner is only maintaining a Cold Storage where meat is stored and sold. Therefore, the petitioner is not required to obtain any licence applicable to slaughter house. Ext.P11 trade licence issued to the petitioner expired on 31.03.2021. The petitioner sought for renewal of licence paying the prescribed licence fee as evidenced by Exts.P1 to P5. Yet, licence is not renewed. At the same time, the Cold Storage of the petitioner is sought to be shut down on the ground that the petitioner is not holding any licence.

4. The Standing Counsel entered appearance and opposed the writ petition. The Standing Counsel denied all the allegations made by the petitioner in the writ petition. It is submitted on behalf of the Municipality that a number of complaints were received against the business of the petitioner. In the complaints, it was alleged that the petitioner is cutting and skinning carcasses, chicken etc. When these complaints were] received, enquiries were made. It was noted that the petitioner has no current licence to run the meat stall. It is also reported that the activities of the petitioner is creating nuisance in the locality. Therefore, an order was issued directing to shut down the Meat Stall of the petitioner.

5. I have heard the learned counsel for the petitioner, the learned Government Pleader representing the 1st respondent and the learned Standing Counsel for 2nd and 3rd respondents.

6. From the pleadings and arguments, it emerges that the petitioner, and before him his father, were running the Cold Storage in the shop room for a long period. The petitioner has obtained Ext.P9 Municipal licence for running a Cold Storage. The petitioner is also holding Ext.P13 licence issued by the Commissioner of Food Safety and Standards Authority of India for running a unit dealing with meat and meat] products including poultry and game.

7. The petitioner states that he is not skinning carcasses of animals and chicken and is only using the premises as a Cold Storage. As and when customers approach, meat will be sold to them from the Cold Storage.

8. Taking into consideration the facts of the case and the arguments made at the Bar, this Court is of the view that as long as the petitioner does not possess licence for slaughter house, the petitioner cannot be permitted to skin the carcasses of the animals in the premises where the petitioner is running business. The petitioner undertakes that no skinning of carcasses or cutting meats will be done in the Cold Storage premises.

In view of the submission made as above, the writ petition is disposed of directing the respondents to consider the application for renewal of Trade Licence] for Cold Storage submitted by the petitioner and pass appropriate orders thereon within a period of one month. It is made clear that if the petitioner resorts to cutting or skinning of animals or chicken, the respondents will be free to proceed against the petitioner in accordance with law. Till the respondents take a decision on the renewal of licence of the petitioner, no coercive proceedings shall be taken against the Cold Storage of the petitioner.

Sd/-

N. NAGARESH, JUDGE smm/02.08.2022] APPENDIX OF WP(C) 24092/2022 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE RECEIPT ISSUED DATED 19.02.20 WHICH SPEAKS OF PROPERTY TAX AND OTHER THINGS PERTAINING TO ROOM NO.6/877.

Exhibit P2 A TRUE COPY OF THE RECEIPT ISSUED BY THE THIRD RESPONDENT DATED 04.06.20 TO THE OWNERS OF THE PROPERTY WITH OLD NO.6/877 AND NEW NO.4/376.

Exhibit P3 A TRUE COPY OF THE CASH RECEIPT ISSUED BY THE THIRD RESPONDENT TO THE OWNERS OF THE PROPERTY WITH NEW NO.4/376 DATED 19.07.21.

Exhibit P4 A TRUE COPY OF THE RECEIPT ISSUED TO THE PETITIONER DATED 16.7.22.
Exhibit P5 A TRUE COPY OF THE RECEIPT ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER PERTAINING TO ROOM NO.6/877 DATED 26.3.22.

Exhibit P6 A TRUE COPY OF THE RECEIPT ISSUED TO THE PETITIONER PERTAINING TO ROOM 6/877 DATED 19.2.20 BY THE THIRD RESPONDENT.

Exhibit P7 A TRUE COPY OF THE FURTHER RECEIPT ISSUED TO THE PETITIONER DATED 07.2.19 AS PERTAINING TO OLD ROOM NO.6/877.

Exhibit P8 A TRUE COPY OF THE RECEIPT ISSUED TO THE PETITIONER PERTAINING TO OLD NO.6/877 DATED 20.2.18 BY THE THIRD RESPONDENT.

Exhibit P9 A TRUE COPY OF THE LICENSE ISSUED TO THE PETITIONER BY THE THIRD RESPONDENT DATED 16.11.17.

Exhibit P10 A TRUE COPY OF THE LICENSE ISSUED TO THE PETITIONER BY THE THIRD RESPONDENT DATED 06.2.18.

Exhibit P11 A TRUE COPY OF THE LICENSE ISSUED] TO THE PETITIONER BY THE THIRD RESPONDENT DATED 29.5.20.

Exhibit P12 A TRUE COPY OF THE ORDER OF THE THIRD RESPONDENT DATED 12.7.22.
Exhibit P13 A TRUE COPY OF THE ORDER OF THE LICENSE ISSUED UNDER THE FOOD

SAFETY AND STANDARDS ACT, 2006 DATED 05.08.2021.