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Kalasakkaran Latha Vs K.V. USHA

Con. Case (C) . No. 1117 of 2010 (S)

Court: High Court Of Kerala

Date of Decision: Feb. 14, 2011

Hon'ble Judges: Antony Dominic, J

Bench: Single Bench

Advocate: M.V. Amaresan, for the Appellant; T.K. Vipindas, for the Respondent

Judgement

Antony Dominic, J.
Petitioner approached this Court by filing WP(C) No. 14543/09 complaining that the 1st Respondent was not

considering their application for building permit in the light of the consent order obtained from the Kerala State Pollution Control Board.

Considering the said controversy, the writ petition was disposed of by judgment dated 10th of March, 2010 directing that the application shall be

considered and orders thereon shall be passed in the light of the consent obtained by the Petitioner from the Pollution Control Board.

2. As directed in the judgment, the application was considered and Respondent herein issued Annexure III dated 6/4/2010 informing the Petitioner

that consent order permitted establishment of the pig farm only in RS 205/3 and that since the Petitioner"s application covered properties in RS

Nos. 204/3 and 204/4 also, the permit cannot be granted. Subsequently, Petitioner obtained Annexure VI consent variation order from the

Pollution Control Board modifying the survey numbers by including RS Nos. 204/3 and 204/4 also in the consent order. Thereafter, Respondent

issued Annexure VIII communication stating that the application of the Petitioner has to be forwarded to the Town Planner and requested the

Petitioner to furnish additional copies of building plan, service plan and site plan. It is alleging that by the above conduct, Respondent has willfully

disobeyed the directions in the judgment, this contempt petition is filed.

3. From the counter affidavit filed by the Respondent, what is seen is that in terms of the provisions of the Building Rules, application for

establishment of poultry and related activities are to be submitted to the District Town Planner and therefore the application of the Petitioner was

also forwarded. It is stated that the District Town Planner by Annexure R1(b) pointed out certain defects in the documents submitted by the

Petitioner and that when the Petitioner rectified those defects and resubmitted the documents, these were forwarded to the District Town Planner

on 3/9/2010 and that orders of the Town Planner are awaited.

4. Petitioner has not been able to show me that the Town Planner''s approval is not necessary. If that be so, the fact that this Court has directed

consideration of the application of the Petitioner in the light of the consent order issued by the Pollution Control Board does not mean that the

Town Planner''s approval stands dispensed with. Consequently, the conduct of the Respondents in having insisted on obtaining the approval of the

Town Planner cannot be said to be a case of violation of the directions in the judgment warranting proceedings under the Contempt of Courts Act.

5. In that view, I do not find any reason to be proceeded with. Therefore, contempt petition is closed leaving it open to the Petitioner to move the

Town Planner, get his approval and thereafter pursue the matter before the Respondent, who shall pass orders as directed in the judgment.