



2025:KER:40886

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

WEDNESDAY, THE 11TH DAY OF JUNE 2025 / 21ST JYAISHTA, 1947

WP(C) NO. 14218 OF 2023

PETITIONER/S:

- 1 A ONE MILK PRODUCTS PVT. LTD.,
PATHARAM P.O., KOLLAM DISTRICT, REPRESENTED BY ITS
MANAGING DIRECTOR, PIN - 690522
- 2 SUSEELAN,
AGED 56 YEARS
S/O. VARITHAMPI, MANAGING DIRECTOR, A ONE MILK
PRODUCTS PVT.LTD., PATHARAM P.O., KOLLAM DISTRICT,
PIN - 690522

BY ADVS.
SHRI.B.S.SIVAJI
SMT.DHANYA SREENIVASAN

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY THE SECRETARY, LOCAL SELF GOVERNMENT
(RURAL) DEPARTMENT, ROOM NO.201A, 2ND FLOOR,
ANNEX1, SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001
- 2 SOORANAD SOUTH GRAMA PANCHAYAT,
SOORANAD SOUTH, PATHARAM P.O., KOLLAM DISTRICT,
REPRESENTED BY ITS SECRETARY, PIN - 690522
- 3 SECRETARY,
SOORANAD SOUTH GRAMA PANCHAYAT, SOORANAD SOUTH,
PATHARAM P.O., KOLLAM DISTRICT, PIN - 690522



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4 THE CHAIRMAN,
STANDING COMMITTEE FOR FINANCE, SOORANAD SOUTH
GRAMA PANCHAYAT, SOORANAD SOUTH, PATHARAM P.O.,
KOLLAM DISTRICT, PIN - 690522

BY ADVS.
GOVERNMENT PLEADER
SRI.M.R.SASITH
SRI.M.R.SARIN

OTHER PRESENT:

SMT.JASMIN.M.M, G.P

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 11.06.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

The 1st petitioner is a limited company and the 2nd petitioner is the Managing Director of the 1st respondent company. The petitioners have been engaged in the business of Dairy Milk and related products since 1999 onwards. The petitioners have approached this Court by filing this writ petition being aggrieved by, Exts.P1, P3 and P14, which are the assessment orders under the provisions of the Kerala Panchayat Raj Act and also the recovery notices issued pursuant to the same. The facts which led to the filing of this writ petition are as follows:

According to the petitioners, they had constructed ten buildings for the purpose of using the same for their business, in the year 2016. According to the petitioners, the constructions were made after submitting proper applications in this regard. However, as the 3rd respondent failed to issue appropriate permissions within the statutory period, the petitioners had attained the right to commence and continue the construction, as according to them they obtained a deemed permission to do so. Later, as per Ext.P1 order dated 18.05.2022 the 3rd respondent



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passed an order, allotting unauthorized number to the aforesaid building, by imposing the tax upon the building three times of the actual tax. As against Ext.P1, Ext.P2 appeal was submitted before the 4th respondent. However, the said appeal was rejected by the 4th respondent as per Ext.P3, order. Based on the same, Ext.P4 to P14 notices were issued as part of the revenue recovery proceedings initiated against the petitioners. The total amount demanded is Rs.11,99,646/-. This writ petition is submitted by the petitioners in such circumstances.

2. I have heard Sri.B.S Sivaji, the learned counsel appearing for the petitioners and Smt. Jasmin M.M, the learned Government Pleader for the State.

3. The specific contention raised by the learned counsel for the petitioners is that, the action on the part of the respondents in assigning unauthorized number to the building and imposing three times of actual tax is not legally sustainable, in view of the fact that the construction was commenced and completed, on the basis of the application submitted by the petitioners before the Panchayat for building permit but the same



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was not considered and therefore the petitioners have the right to carry out the constructions based on the deemed permit, as the statutory period expired. However, apart from merely raising the said contention, absolutely no documents are produced indicating the submission of any application for permit and the rejection of the same. Even though an appeal was submitted, before the 4th respondent, during the pendency of the appeal also, no documents indicating the same were produced. Therefore, since the petitioners are raising a contention, with regard to the deemed permit and claiming protection from the proceedings, it is the burden of the petitioners to establish the same by producing necessary documents in this regard. In the absence of any documents indicating the submission of application for permit and inaction on the part of the Panchayat in considering the said application, the contention of the petitioners as to the deemed permit cannot be accepted. Those are the basic documents which are required to establish the case of the petitioners and in the absence of the same, the contention of the petitioners cannot be entertained.



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4. As far as the contention raised by the petitioners to the effect that Ext.P3 appeal was passed, without giving the petitioners an opportunity for hearing, the crucial aspect to be noticed is that, since the basic requirement of documents to establish the contentions raised by the petitioners were not placed on record even at this point of time, i.e., after more than two years of the assessment, I do not find it necessary to entertain the said contention as well. This is particularly because, even if an opportunity is granted to the petitioners, in the absence of any documents as referred to above, it could not have been possible for the petitioners to establish the said case. Therefore, granting a further opportunity would be merely reduced to an empty formality. Moreover, even though this writ petition is submitted in the year 2023, even now, no documents are produced to substantiate the contention that an application for permit was indeed submitted by them, before the authorities concerned.

5. There is yet another reason on the basis of the contention of the petitioners regarding the deemed permit is required to be rejected. According to the petitioners the building



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had been completed in the year 2016. However, in Ext.P1, there is reference of several applications submitted by the petitioners in the year 2019, 2020, 2021 and 2022 seeking regularization of the constructions which were already rejected. Therefore, as the regularization applications were rejected and there are no records to show the challenge raised against the same, I am of the view that the contention of the petitioners is to be rejected on this reason also.

In such circumstances, this writ petition is dismissed, upholding the legal sustainability of the impugned orders. However, it is clarified that, it shall be open for the petitioners to take necessary steps to get the building regularized by following the procedure, in accordance with law.

Sd/-

ZIYAD RAHMAN A.A.

JUDGE

rpk



APPENDIX OF WP(C) 14218/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ORDER NO. 400280/PTAL06/GENERAL/ 2021/3241/(3) DATED 18.05.2022 ISSUED BY THE 3RD RESPONDENT
Exhibit P2	A TRUE COPY OF THE APPEAL DATED 06.03.2023 SUBMITTED BEFORE THE 4TH RESPONDENT
Exhibit P3	TRUE COPY OF THE PROCEEDINGS NO.400280/BADC01/ GENERAL/2022/5933(1) DATED 13.03.2023 ISSUED BY THE 3RD RESPONDENT
Exhibit P4	A TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.406820/- IN RESPECT OF SSGP/I/4 UA
Exhibit P5	TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.152400/- IN RESPECT OF SSGP/I/5 UA
Exhibit P6	TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.96960/- IN RESPECT OF SSGP/I/6 UA
ExhibitP7	TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.10396/- IN RESPECT OF SSGP/I/7 UA
Exhibit P8	TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.34904/- IN RESPECT OF SSGP/I/8 UA
Exhibit P9	A TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.21,624/- IN RESPECT OF SSGP/I/9 UA
Exhibit P10	TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.29232/- IN RESPECT OF SSGP/I/10 UA
Exhibit P11	TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.7904/- IN RESPECT OF SSGP/I/11 UA
Exhibit P12	TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.123128/- IN RESPECT OF SSGP/I/12 UA
Exhibit P13	TRUE COPY OF THE R.R. DEMAND NOTICE DATED 14/03/2013 FOR AN AMOUNT OF RS.316008/- IN RESPECT OF SSGP/I/13 UA

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Exhibit P14

**TRUE COPY OF THE WARRANT OF ATTACHMENT
DATED 29/03/2023 BY THE 2ND RESPONDENT**