

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 17TH DAY OF FEBRUARY 2021 / 28TH MAGHA, 1942

WP(C).No.39431 OF 2018(D)

PETITIONER:

SELIL MOIDEEN,
AGED 29 YEARS
SON OF MUHIFUDIN, HAFIL, JUMA MASJID ROAD, PANAYIKULAM,
ERNAKULAM-683 511

BY ADVS.
SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR
SRI.K.JAGADEESH

RESPONDENTS:

- 1 KERALA COASTAL ZONE MANAGEMENT AUTHORITY,
REPRESENTED BY ITS SECRETARY,
KERALA COASTAL ZONE MANAGEMENT AUTHORITY,
4TH FLOOR, KSRTC BUS TERMINAL,
THAMPANOR, THIRUVANANTHAPURAM-685 001
- 2 STATE OF KERALA
DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE, REPRESENTED
BY ITS PRINCIPAL SECRETARY,
ROOM NO. 372, FLOOR MAIN BLOCK,
SECRETARIAT, THIRUVANANTHAPURAM-695 001
- 3 UNION OF INDIA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE,
PARYAVARAN BHAVAN, CGO COMPLEX, LODHI ROAD,
NEW DELHI-110 003
- 4 ALANGAD GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY,
NEERIKKODE, LUVA-683 511

BY ADVS:
SRI.M.P.PRAKASH
SRI.SUVIN R.MENON, CGC
SRI.DINESH MATHEW J.MURICKEN
SRI.K.J.MANURAJ - GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17.02.2021,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP (C) .No.39431 OF 2018 (D)

2

W.P.(C) No.39431 of 2018

J U D G M E N T

Petitioner is one of the co-owners of a land comprising in Survey Nos.282/8, 282/5, 282/7A, 282/7B and 282/6-1 of Alangad Village, situated within the limits of the fourth respondent Panchayat. It is stated by the petitioner that in the draft of the Coastal Zone Management Plan prepared under the Coastal Regulation Zone Notification, 2011, the lands in Alangad Panchayat including the land of the petitioner are shown as falling within CRZ-III Zone. According to the petitioner, the said lands should have been brought under CRZ-II zone in the said plan. The petitioner could not participate in the public hearing conducted on the draft plan due to flood in the area. He, therefore, preferred Ext.P4 representation to the Government pointing out the objections to the draft plan. The writ petition was filed thereafter seeking directions to the respondents to make appropriate corrections in the plan.

WP (C) .No.39431 OF 2018 (D)

3

2. Heard the learned counsel for the petitioner, the learned Government Pleader, the learned Standing Counsel for the first respondent as also the learned Central Government Counsel.

3. It was pointed out by the learned counsel for the petitioner that even the State Government wanted the lands within the limits of the fourth respondent Panchayat to be brought under CRZ-II zone and addressed Ext.P7 letter to the Ministry of Environment, Government of India.

4. It was pointed out, however, by the learned Standing Counsel for the first respondent that the Coastal Zone Management Plan pursuant to the Coastal Regulation Zone notification, 2011 has already been finalised and no relief can therefore be granted to the petitioner.

5. As pointed out by the learned counsel for the first respondent, it is seen that the Coastal Zone Management Plan pursuant to the Coastal Regulation Zone Notification, 2011 has already been finalised by the competent authority on 28.02.2019 and the same is in force for the last two years. It is also seen that just before the finalisation of Coastal Zone

WP (C) .No.39431 OF 2018 (D)

4

Management Plan pursuant to the Coastal Regulation Zone notification, 2011, the Coastal Regulation Zone notification, 2011 has been replaced by the Coastal Regulation Zone notification, 2019. As such, the Coastal Zone Management Plan prepared pursuant to the Coastal Regulation Zone notification, 2011, would be in force only till Coastal Zone Management Plan pursuant to the Coastal Regulation Zone Notification, 2019 is finalised. It is submitted by the learned counsel for the parties on either side that steps for finalising the Coastal Zone Management Plan pursuant to the Coastal Regulation Zone notification, 2019 are underway and the same is likely to be finalised soon. In so far as steps have already been taken to revise the impugned Coastal Zone Management Plan which is now in force, I am of the view that it is unnecessary for this court to go into the correctness of the said plan as the petitioner will be able to raise his grievance against the proposed plan in the public hearing before finalisation of the proposed plan.

In the circumstances, this writ petition is disposed of making it clear that the inclusion of the land of the

WP (C) .No.39431 OF 2018 (D)

5

petitioner in CRZ – III zone in the Coastal Zone Management Plan prepared under the Coastal Regulation Zone notification, 2011 will not preclude the petitioner from raising objection against the inclusion of his land in any of the Coastal Regulation Zones in the Coastal Zone Management Plan proposed under the Coastal Regulation Zone Notification, 2019. Needless to say that if objections are raised by the petitioner in the public hearing in connection with the finalisation of the Coastal Zone Management Plan pursuant to the Coastal Regulation Zone notification, 2019, the same shall be addressed by the competent authority. Similarly, the competent authority shall also consider the views of the State Government, which is communicated to the Central Government as per Ext.P7 letter, in the matter of finalising the proposed plan.

Sd/-
P.B.SURESH KUMAR, JUDGE.

PV

WP(C) .No.39431 OF 2018 (D)

6

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE PHOTOSTAT COPY OF THE APPROVAL LETTER
NO. J 17011/23/92-IA-III, DATED 27.9.1996
ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P2 TRUE PHOTOSTAT COPY OF THE NOTICE OF
PUBLIC HEARING ISSUED BY THE FIRST
RESPONDENT, DATED 13.7.2018
- EXHIBIT P3 TRUE PHOTOSTAT COPY OF THE ORDER OF THIS
HON'BLE COURT IN W.P.(C) NO. 26055 OF 2018
DATED 22.11.2018
- EXHIBIT P4 TRUE PHOTOSTAT COPY OF THE REPRESENTATION
MADE BY THE PETITIONER TO THE 2ND
RESPONDENT, DATED 27.11.2018
- EXHIBIT P5 TRUE COPY OF THE JUDGMENT RENDERED IN W.P.
(C) NO. 24524 OF 2016, DATED 26.10.2016
- EXHIBIT P6 TRUE PHOTOSTAT COPY OF THE SAID ORDER OF
THE 2ND RESPONDENT NO.G.O.
(Rt)NO.65/2019/ENVt, DATED 10/07/2019.
- EXHIBIT P7 TRUE PHOTOSTAT COPY OF THE LETTER
D.O.LETTER NO.B3/47/2017, DATED
10/12/2018, SENT BY THE SRI.P.H.KURIAN,
ADDITIONAL CHIEF SECRETARY TO THE 3RD
RESPONDENT.

RESPONDENT'S EXHIBITS:

- EXHIBIT R3(A) TRUE COPY OF THE NOTIFICATION DATED
06.01.2011 ISSUED BY THE COASTAL
REGULATIOIN ZONE, MINISTRY OF ENVIRONMENT
AND FORESTS
- EXHIBIT R3(B) TRUE COPY OF THE LETTER F.NO.12-7-2018-IA-
111 DATED 28.02.2019 ISSUED BY THE
DIRECTOR (CRZ) , MOEF