



2023:KER:66974

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 1ST DAY OF NOVEMBER 2023 / 10TH KARTHIKA, 1945

WP(C) NO. 35968 OF 2023

PETITIONER:

M.P.SHIJU @ SHIJU MOOTHEDATHU PURUSHOTHAMAN
AGED 56 YEARS
S/O.M.N.PURUSHOTHAMAN (LATE), MOOTHEDATHU HOUSE,
RAMANGALAM KARA, MARADY VILLAGE, MUVATTUPUZHA TALUK,
MUVATTUPUZHA, ERNAKULAM DISTRICT, PIN - 686661
BY ADVS.
M.G.KARTHIKEYAN
NIREESH MATHEW

RESPONDENTS:

- 1 THE EXCISE COMMISSIONER
COMMISSIONERATE OF EXCISE, EXCISE HEAD QUARTERS,
NANDAVANAM, THIRUVANANTHAPURAM, PIN - 695033
- 2 THE DEPUTY COMMISSIONER OF EXCISE
EXCISE DIVISION OFFICE, KACHERIPADY, ERNAKULAM,
PIN - 682018
- 3 THE CIRCLE INSPECTOR OF EXCISE
EXCISE DIVISION OFFICE, MUVATTUPUZHA,
ERNAKULAM DISTRICT, PIN - 686661
SRI.SUNIL KUMAR KURIAKOSE - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

Amidst the various assertions, allegations and averments in this writ petition, the learned counsel for the petitioner confined his plea that the 1st respondent - Excise Commissioner be directed to take up Exts.P6 and P8 applications and dispose it of, within the shortest time frame possible.

2. Sri.Sunil Kumar Kuriakose - learned Government Pleader, in response to the afore request of the petitioner, as made by his learned counsel - Sri.M.G.Karthikeyan, submitted that if the petitioner only requires Exts.P6 and P8 applications to be taken up and disposed of by the 1st respondent, there does not appear to be any legal impediment in doing so; but prayed that this Court may not make any affirmative declarations on the entitlement of the petitioner to any relief and leave it to be decided by the competent Authority, in terms of law.

3. When I evaluate the afore submissions, on the touchstone of the materials available, it is clear that the original licensee of the shop was the petitioner's mother, who is stated to have unexpectedly expired on 14.09.2023. The shop appears to have been stopped thereupon and the petitioner says that he has his mother's Will, namely Ext.P5, on the strength of which, he is entitled to have the licence transferred in his favour. Obviously, these are matters that will

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have to be decided by the 1st respondent appositely; and I notice that Exts.P6 and P8 applications are pending, namely, for transfer of the licence and for provisional permission to operate the shop until such time, it is allowed.

Resultantly, I allow this writ petition and direct the 1st respondent to take up Exts.P6 and P8 applications; and if possible, issue appropriate final orders on Ext.P6 within a period of two weeks from the date of receipt of a copy of this judgment; but if it is not possible to do so, then to take up Ext.P8 and take an apposite decision thereon until such time as Ext.P6 can be disposed of. The latter shall be done within a period of one week from the date of receipt of a copy of this judgment.

Sd/ -**DEVAN RAMACHANDRAN
JUDGE****MC/1.11**



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APPENDIX OF WP(C) 35968/2023

PETITIONER EXHIBITS

- Exhibit-P1 TRUE PHOTOCOPY OF THE INTERIM ORDER DATED 22.09.2022 IN WP(C)NO.30053/2022 PASSED BY THIS HON'BLE COURT.
- Exhibit-P2 TRUE PHOTOCOPY OF THE RENEWAL CERTIFICATE OF THE FL-11 LICENSE, DATED 02.04.2023, ISSUED BY THE 2ND RESPONDENT
- Exhibit-P3 TRUE PHOTOCOPY OF THE AMENDMENT, SRO.NO.324/2023 DATED 04.03.2023 ISSUED BY THE GOVERNMENT.
- Exhibit-P4 TRUE PHOTOCOPY OF THE DEATH CERTIFICATE OF THE MOTHER OF THE PETITIONER, SMT.A.K.SANTHA, ISSUED ON 19.09.2023 BY THE REGISTRAR OF BIRTHS AND DEATHS, MUVATTUPUZHA MUNICIPALITY
- Exhibit-P5 TRUE PHOTOCOPY OF THE WILL EXECUTED ON 11.01.2023 (REGISTERED) EXECUTED BY LATE SMT.A.K.SANTHA, THE MOTHER OF THE PETITIONER.
- Exhibit-P6 TRUE PHOTOCOPY OF THE APPLICATION SUBMITTED TO THE 1ST RESPONDENT DATED 20.10.2023
- Exhibit-P7 TRUE PHOTOCOPY OF THE APPLICATION ACKNOWLEDGMENT FOR THE APPLICATION SUBMITTED ON 28.10.2023
- Exhibit-P8 TRUE PHOTOCOPY OF THE APPLICATION SUBMITTED TO THE RESPONDENTS THROUGH EMAIL ON 28.10.2023.