

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 23rd DAY OF JANUARY, 2014

BEFORE

THE HON'BLE MR.JUSTICE A.N. VENUGOPALA GOWDA

WRIT PETITION NO.47079/2012 C/W

W.P.NOS.45448-45498/2012 (LB-RES)

IN W.P.NO.47079/2012

BETWEEN:-

MR. MOHAMMED SHERIF,
AGED 41 YEARS,
S/O P.H. ABDULLA,
RESIDING AT SECOND BLOCK,
KATIPALLA 575 015,
MANGALORE TALUK.

(BY SRI P.P. HEGDE, ADV.)

...PETITIONER

AND:-

1. THE DEPUTY COMMISSIONER,
DAKSHINA KANNADA DISTRICT,
MANGALORE 575 001.
2. MANGALORE CITY CORPORATION,
LALBAGH, MANGALORE 575003
REPTD. BY ITS COMMISSIONER
3. THE COMMISSIONER OF POLICE,
MANGALORE CITY,
MANGALORE 575001.

...RESPONDENTS

(BY SRI P.B. BAJENTRI, AGA FOR R1 AND R3;
SRI A.K.VASANTH, ADV. FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPOSITION OF PENALTY OF RS.100/- VIDE RECEIPT NO.956 DT 17.11.2012 ON THE PETITIONER AS PER ANNEXURE-E IMPOED BY THE 2ND RESPONDENT AND DIRECT THE RESPONDENTS NOT TO CAUSE ANY INTERFERENCE TO THE PETITIONER IN THE USE OR SALE OF PLASTIC PRODUCTS, INCLUDING CARRY BAGS WHICH IS NOT LESS THAN 40 MICRONS IN THICKNESS.

IN W.P.NOS.45448-498/2012

BETWEEN:

1. CANARA PLASTICS MANUFACTURERS & TRADERS ASSOCIATION,
INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS GENERAL SECRETARY
MR. IQBAL B.A.
2. M/S PLAMA PLASTICS LTD.
171-C, INDUSTRIAL AREA,
BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS DIRECTOR
MR. SURESH B KALKERE.
3. M/S JANANI PACKAGING
D113, INDUSTRIAL ESTATE,
BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PROPRIETOR,MR. RAVINDRA.
4. M/S PACKWELL PLASTIC INDUSTRIES
INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PROPRIETOR MR. HASSAN.
5. M/S NEO PACK INDUSTRIES
INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR. ASHRAF.

6. M/S PLASTEX INDUSTRIES
INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR. B M FAROOQ.
7. M/S GURUCHARAN INDUSTRIES
INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR.JAYAKAR SHETTIGAR.
8. M/S G C PLASTICS
INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER SMT. KAUSALYA.
9. M/S GURUCHARAN PLASTICS
INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR.JAYAKAR SHETTIGAR.
10. M/S ASSOCIATED PLASTICS
442, INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MRS.LAKSHMI B KARKARE.
11. M/S BLUECHIP INDUSTRIES
INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR. ZAKIR HUSSAIN.
12. M/S PREMIER PLASTIC INDUSTRIES
24B, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PROPRIETOR
MR. ABDUL NAZEER HUSSAIN.
13. M/S PRINCE PLASTIC INDUSTRIES
M23, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PROPRIETOR MR. HASHIM.

14. M/S POOJA PACKAGING & PRINTING
C9, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PROPRIETRIX LALITHA M SHETTY.
15. M/S HAJJAJ INDUSTRIES
GOLTHA MAJALU,
KALLADAKA-574 222,
REP. BY ITS PROPRIETER MR. G M ABDUL RAZAK.
16. TAJ POLYMERS
GOLTHA MAJALU,
KALLADAKA-574 222,
REP. BY ITS PROPRIETER
MR. G M MOHAMMED YOUSUF.
17. MAA SACHCHIYA INDUSTRIES
143, INDUSTRIAL ESTATE. BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR. RAJESH SHETTY.
18. JANANI INDUSTRIES
B-113, INDUSTRIAL ESTATE,
BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PROPRIETOR MR. RAVINDRA.
19. TRANSPACK POLYMERS
292, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR. KHADARSHETTY.
20. DECCAN PACKAGING INDIA PVT. LTD.,
6B, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS MANAGING DIRECTOR
MR. B H ASGAR ALI.
21. PACKTECH WRAPPING SYSTEM
D-63, INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR. MOHAMMED ALI.

22. GURUDEV PLASTICS (P) LTD
225, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS MANAGING DIRECTOR
MR. MOHAN BALIGA.
23. SHREE GANESH INDUSTRIES
OPP. INDUSTRIAL AREA, HALADI ROAD,
KOTESHWARA, KUNDAPUR,
UDUPI DISTRICT,
REP. BY ITS MANAGING PARTNER SMT. LALITHA.
24. SHREE VINAYAKA PLASTIC INDUSTRIES
OPP. INDUSTRIAL AREA, HALADI ROAD,
KOTESHWARA, KUNDAPUR,
UDUPI DISTRICT,
REP. BY ITS PROPRIETOR MR. K. MAHESH BETTIN.
25. SHREE VIGNESHWARA POLY PRODUCTS
BEACH ROAD, KOTESHWARA,
KUNDAPUR, UDUPI DISTRICT,
REP. BY ITS MANAGING PARTNER SRI.K.PRAKASH.
26. SRI DURGA POLYMERS
BEACH ROAD, KOTESHWARA,
KUNDAPUR, UDUPI DISTRICT,
REP. BY ITS MANAGING PARTNER SRI.K.VINODA.
27. SRI DEVI PLASTICS
BEACH ROAD, KOTESHWARA,
KUNDAPUR, UDUPI DISTRICT,
REP. BY ITS PROPRIETOR SMT. ARATHI.
28. SRI SIDDHI PLASTICS
NH-17, KUMBASHI,
KUNDAPURA TALUK, UDUPI,
REP. BY ITS PROPRIETOR
MR. SRIDHAR UPADHYAYA.
29. MANGALORE POLY PACK INDIA PVT. LTD
425, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS MANAGING DIRECTOR
MR. MOHAMMED HANEEF.

30. KUBERA INDUSTRIES
323, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS MANAGING DIRECTOR
MR. RAMACHANDRA.
31. MICRO PLASTIC PACKAGING
INDUSTRIAL ESTATE, KARNAD, MULKI,
REP. BY ITS PROPRIETOR MR. BUSHRA.
32. KAKUNJE POLYPACKS
292, INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER MR. K.BALAKRISHNA BHAT.
33. EVEREST PLASTIC INDUSTRIES
19/96, EVEREST PLASTIC ROAD,
KULASHEKARA, KALPANE,
MANGALORE-575 005
REP. BY ITS PARTNER MR. MR. C.FERNANDES.
34. GOLDWIN PLASTICS
KALPANE, MANGALORE-575 005
REP. BY ITS PROP: L.MONTHERO.
35. EVEREST POLYPRINTS
19/97 KALPANE,
MANGALORE-575 005
REP. BY ITS PROPRIETOR GOLDDWIN FERNANDIS.
36. LATHA ALIED PRODUCTS
227, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-557 011,
REP. BY RADHIKA BALIGA.
37. UNO PACK INDUSTRIES
126E, INDUSTRIAL AREA, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PARTNER B A NAZEER.
38. SUN PACKAGING INDUSTRIES
INDUSTRIAL ESTATE, BAIKAMPADY,
MANGALORE-575 011,
REP. BY ITS PROPRIETER MONIZ.

39. GURUDEV ENTERPRISES
G.H.S.ROAD, MANGALORE-575 011,
REP. BY ITS PARTNER GANESH BALIGA.
40. PAPER PLASTIC PAKAGING
SHIVA KRIPA, UDUPI-575 011,
REP. BY ITS PARTNER: GANESH BALIGA.
41. B.SADASHIVA DAMODAR BALIGA
CENTRAL MARKET, MANGALORE-575 011
REP. BY ITS PROP. B.UMESH BALIGA.
42. PLASTIC ZONE
G.M.ROAD BUNDER,
MANGALORE-575 011
REP. BY ABDUL RAZIK.
43. M.A.TRADERS
NELLIKAL ROAD,, MANGALORE-575 011
REP. BY ITS PROPRIETOR MR. UMAR FAROOQ.
44. PACK HOUSE
BIBI ALABI ROAD,, MANGALORE-575 011
REP. BY ITS PROPRIETOR MR. SHEIKH.
45. PLASTIC LINE
RAO & RAO CIRCLR, MANGALORE-575 011,
REP. BY ITS PROPRIETOR
MR. MOHAMMED MANSOOR.
46. MEENAKSHI PLASTIC
MEGHA MARKET, MANGALORE-575 011,
REP. BY ITS PROPRIETOR MR. SAVALRAM RAIKA.
47. PALSTIC POINT
BIBI ALABI ROAD, MANGALORE-575 011,
REP. BY ITS PROPRIETOR MR.B M FAROOQ.
48. PLASTIC PALACE
MARKET ROAD, MANGALORE-575 011,
REP. BY ITS PROPRIETOR MR.ABDUL KHADAR.

49. HANEEF TRADERS
JUMMA MASJID ROAD, BANDAR,
MANGALORE-575 011,
REP. BY ITS PROPRIETOR MR.MOHAMMED HANEEF.
50. PLASTIC CENTRE
KANKANADI, MANGALORE-575 011,
REP. BY ITS PROPRIETOR MR.MOHAMMED SALI.
51. PLASTIC MAHAL
MAIDAN ROAD, MANGALORE-575 011,
REP. BY ITS PROPRIETOR T.M.ISHAAQ.

... PETITIONERS

(BY SRI VIVEK HOLLA FOR
M/S. HOLLA AND HOLLA, ADVS.)

AND:

1. THE DY. COMMISSIONER
DAKSHINA KANNADA DISTRICT,
MANGALORE-575 014.
2. THE COMMISSIONER
MANGALORE MAHANAGARA PALIKE,
MANGALORE-575 014.
3. CHIEF EXECUTIVE OFFICER
DAKSHINA KANNADA ZILLA PANCHAYAT,
MANGALORE-575 014.
4. PLANNING DIRECTOR
DISTRICT URBAN DEVELOPMENT CELL,
DAKSHINA KANNADA DISTRICT,
MANGALORE-575 014.

... RESPONDENTS

(BY SRI P.B. BAJENTRI, AGA FOR R1 & R4;
SRI A.K. VASANTH, ADV. FOR R2;
SRI K. ANANDARAM, ADV. FOR R3)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION PRAYING TO DECLARE THAT THE ORAL INSTRUCTIONS OF THE RESPONDENTS IN BANNING MANUFACTURE, SALE AND USAGE OF PLASTIC CARRY BAGS, PLATES & CUPS IS WHOLLY ILLEGAL AND DIRECTING THE RESPONDENTS NOT TO STOP MANUFACTURE, SALE AND USAGE OF PLASTIC CARRY BAGS, PLATES AND CUPS AND FROM SEIZING THE SAME.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The Writ petition Nos.45448-498/2012 have been filed by Canara Plastics Manufacturers & Traders Association and other manufacturers of plastic bags and allied items. The petitioner in W.P.No.47079/2012 is an individual businessman. These writ petitions have been filed to declare that the instructions of the respondents in banning manufacture, sale and usage of plastic carry bags, plates and cups is wholly illegal and for grant of such other reliefs.

2. Respondent No.2 has filed a comprehensive counter.
3. Heard the learned advocates on both sides and perused the writ petition records.

4. In exercise of powers conferred by Ss.3, 6 and 25 of the Environment (Protection) Act 1986 (29 of 1986) and in supersession of the Recycled Plastic Manufacture and Usage Rules, 1999 the Central Government has made the Plastic Wastage (Management and Handling) Rules 2011 (Annexure-F). The validity of the said rules is not under challenge. Rule 5 is with regard to the conditions in the matter of manufacture, stocking, distribution, sale and use of carry bags and sachets. Cl.(c) there under reads as follows:

“no person shall manufacture, stock, distribute or sell any carry bag made of virgin or recycled or compostable plastic, *which is less than 40 microns in thickness;*”

5. Learned Advocates appearing for the respondents submitted that in case the petitioners while manufacturing, stocking, distributing, selling carry bags made of virgin or recycled or compostable plastic do not use less than 40 micros in thickness, no action could be taken against the petitioners or similarly placed persons .

6. Learned Advocate for the petitioners submitted that in view of the interim order passed on 15.1.2013, the petitioners, during the course of manufacture, stocking, distribution, sale and use of carry bags and sachets and other plastic materials, are faithfully complying with the conditions stipulated under Rule 5 and that their products are not less than 40 micron thickness.

7. On 15.1.2013, while passing an interim order it was observed that the respondents can prevent either petitioners or such other manufacturers or traders only from selling plastic products which are less than 40 microns and thus they were directed not to prevent any manufacturer, seller or user of the plastic products which are more than 40 microns. It was made clear that the respondents would be entitled to initiate such action as against the persons manufacturing, selling or using plastic products, which are less than 40 microns. The fine was limited only to the manufactures, dealers of plastic bags of less than 40 microns, the responders were directed to follow the procedure which would indicate the banning of the plastic

bags or other plastic products are calibrated/measured for ascertainties before the fine is imposed.

8. Since the petitioners through their learned advocates undertook that the petitioner will, during the course of manufacture, stocking, distribution and sale and use of carry bags and spoons etc., shall produce/use the material not less than 40 microns by recording their undertaking the interim passed, notice supra is made absolute.

These writ petitions stand disposed of accordingly with no order as to costs.

**Sd/-
JUDGE**

Psg*