

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

WA.No. 1706 of 2013 () IN WP(C).16423/2013

JUDGMENT IN WP(C) 16423/2013 of HIGH COURT OF KERALA
DATED 01-07-2013

APPELLANT/PETITIONER:

R.SANTHOSH, AGED 38 YEARS,
S/O.RAJENDRAN, SANTHOSH NIVAS,
CHIRAKKARA THAZHAM P.O.
KOLLAM - 690 001.

BY ADV. SRI.P.SIVARAJ

RESPONDENTS:

1. SR.GEOLOGIST. KOLLAM
DEPARTMENT OF MINING AND GEOLOGY,
DISTRICT OFFICE
KOLLAM - 690 001

2. TAHSILDAR,
KOTTARAKKARA TALUK, KOTTARAKKARA,
KOLLAM - 690 001.

3. ADDITIONAL TAHSILDAR,
KOTTARAKKARA,
KOLLAM - 690 001 .

4. THE VILLAGE OFFICER
VELIYAM VILLAGE, KOTTARAKKARA TALUK,
KOLLAM DISTRICT - 690 001.

BY SENIOR GOVERNMENT PLEADER P. FAZIL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 25-05-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A No.1706 of 2013

Dated this the 25th of May, 2015

JUDGMENT

Shaji P. Chaly, J.

Appellant, petitioner in the writ petition, challenges the judgment of the learned Single Judge in W.P.(C) No.16423 of 2013 dated 07.07.2013 whereby, without entering into merits, the learned Single Judge has dismissed the writ petition on the ground of long delay in challenging Exts.P10 and P10(a) impugned orders passed by the appropriate statutory authorities.

2. Aggrieved by Exts.P10 and P10(a) orders passed by the authorities seeking to recover certain amounts allegedly on account of quarrying operations conducted by him in Government land without obtaining necessary permit, the appellant has filed the writ petition. The learned Single Judge without going into the merits of the case has found that no proper explanation is offered by the appellant for the long delay in filing the writ petition. In this appeal, we are called upon to consider whether the said finding of the learned Single Judge is

sustainable or not.

3. We heard the learned counsel for the appellant and the learned Government Pleader for the respondents.

4. Even though the impugned orders are dated 04.09.2012, the writ petition was filed only on 27.09.2013. That apart the appellant had earlier filed W.P.(c) No.34808/2011 challenging the liability fixed on him to the tune of Rs.16,83,320/- due towards illegal quarrying and this Court, one among us (Justice Antony Dominic) disposed of the said writ petition directing the second respondent to consider Ext.P6 objection filed by the appellant and to take a decision as early as possible, at any rate, within a period of four weeks.

5. Thereafter, the appellant again approached this Court by filing W.P.(c) No.11972 of 2012, and this time challenging the order of Senior Geologist who allegedly prevented the appellant from enjoying the benefit of quarrying permit till a proper survey is done to identify the area. The said writ petition was disposed of recording the undertaking of the learned Government Pleader that the survey will be fixed within a period of 10 days from the date of the disposal and the proceedings will be finalised within a period of one month thereafter. Alleging non-compliance with

this order, the appellant filed Contempt Case No.1227/2012 and during the pendency of the same, impugned orders, Ext.P10 and P10(a) were passed by the concerned authorities, consequent to which, the contempt case was closed giving liberty to the appellant to challenge the orders issued. In such circumstances it can be seen that the appellant was alertly prosecuting the proceedings initiated against him always and therefore he cannot be heard to say that he was unaware of the impugned orders.

6. The learned Single Judge while considering the question of delay has also taken into account Ext.P11 discharge summaries produced by the appellant to canvass the proposition that he could not approach this Court earlier, consequent to the hospitalisation of his father. But the learned Single Judge has found that the discharge summaries produced by the appellant shows that the treatment was only during the period from 26.7.2012 to 04.08.2012 and 06.09.2012 to 08.09.2012 and therefore, the attempt of the appellant to explain the delay in that regard cannot be sustained.

7. In this appeal, the appellant has filed an affidavit and a petition seeking to accept certain documents in the appeal and

during the course of the argument, counsel for the appellant has drawn our attention to paragraphs 3 and 4 of the affidavit to contend that he has explained the delay in filing the writ petition. We have gone through the affidavit and we do not find that any reason has been assigned by the appellant so as to explain the delay caused in filing the writ petition. We have also gone through the writ petition, the affidavit and the appeal memorandum and we do not find that any reasonable explanation has been offered by the appellant for the delay caused in filing the writ petition.

Therefore, we do not find any infirmity or illegality in the judgment passed by the learned Single Judge. In the circumstances, writ appeal fails and it is accordingly dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A. to Judge

smv