

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WA.No. 1638 of 2015 () IN WP(C).18295/2015

AGAINST THE ORDER IN WP(C) 18295/2015 DATED 10-07-2015

APPELLANT(S)/RESPONDENTS 6 TO 8:-

1. JOSEPH ANTONY
S/O. ANTONY, ILLICHIRA HOUSE, MALLIKASSERII (PO)
PAIKA, PALA, KOTTAYAM - 686 577.
2. ANIL KUMAR.M,
S/O. NARAYANA NAIR, MEKKOKATT HOUSE
MALLIKASSERI (P.O), PAIKA, PALA, KOTTAYAM - 686 577.
3. CHACKOCHAN.K.K.,
S/O. KURIAN, KAYYANI HOUSE, MALLIKASSERI (P.O) PAIKA,
PALA, KOTTAYAM - 686 577.

BY ADVS.SRI.P.CHANDRASEKHAR
SRI.S.PRASANTH
SRI.SOORAJ T.ELENJICKAL
SRI.P.A.MOHAMMED SHAH
SMT.UMA
SRI.K.NANDAKUMAR
SMT.V.A.HARITHA
SMT.P.M.MAZNA MANSOOR

RESPONDENT(S)/PETITIONERS AND RESPONDENTS 1 TO 5 :-

1. M/S.MARIYA GRANITES
MALLIKASSERY (PO), PAIKA, PALA, KOTTAYAM - 686 577
REPRESENTED BY ITS MANAGING PARTNER JOHN JACOB M,
AGED 51 YEARS, S/O. M.M. YACOB
2. THE KERALA LOKAYUKTA
REPRESENTED BY ITS REGISTRAR, LEGISLATURE COMPLEX
VIKAS BHAVAN (PO), THIRUVANANTHAPURAM - 695 033

3. THE SECRETARY,
MEENACHIL GRAMA PANCHAYATH
MEENCACHIL GRAMA PANCHAYATH OFFICE, EDAMATTOM (PO)
KOTTAYAM DISTRICT - 686 578
4. THE SECRETARY,
THIDANAD GRAMA PANCHAYATH
THIDANAD GRAMA PANCHAYATH OFFICE, THIDANAND (PO)
KOTTAYAM DISTRICT - 686 123
5. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD DISTRICT OFFICE
ST. ANTONY'S COMPLEX, NAGAMPADAM
KOTTAYAM DISTRICT - 686 002.
6. THE GEOLOGIST,
MINING AND GEOLOGY DISTRICT OFFICE, CIVIL STATION
COLLECTORATE (PO), KOTTAYAM - 686 002.

BY ADV. SRI.P.C.HARIDAS
BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL
BY SRI.JOBI JOSE KONDODY
BY SRI.SHAJI THOMAS
BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.1638 of 2015

Dated this the 29th day of July 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the appellants and the learned counsel appearing for the respondents.

2. This writ appeal has been filed against the interim order dated 10.7.2015 passed by the learned Single Judge in W.P. (C) No.18295 of 2015. The writ petition was filed by the first respondent herein challenging the order of the Kerala Lok Ayukta dated 23.4.2015. The learned Single Judge passed a detailed order on 25.6.2015 and thereafter passed the impugned order on 10.7.2015.

3. Learned counsel for the appellants submits that the learned Single Judge ought not to have passed the interim order permitting the writ petitioner to carry on mining operation since the same was not sought by the writ petitioner as interim relief in the writ petition. It is further submitted that the petitioner did not have valid lease or a mining permit under the relevant rules and the court ought not to have allowed to carry on quarrying operation. Appellants also had filed counter affidavit in the writ

petition stating that they have made complaints before the Lok Ayukta and on the basis of said complaints, the Lok Ayukta passed the impugned order in the writ petition. The submission of the learned counsel for the appellants that the order passed by the learned Single Judge dated 10.7.2015 was beyond the writ petition does not appeal to us. The order of the Lok Ayukta, which was under challenge in fact observed that the writ petitioner was not entitled to function the quarry. The said order was under challenge in the writ petition. Hence, the learned Single Judge was fully competent to pass any order which is consequential and incidental to the finality of the interim prayer. Thus, the submission of the appellants that the order was beyond the writ petition cannot be accepted.

4. In so far as other submissions, which are sought to be raised by the learned counsel for the appellants, we are of the view that since the writ petition itself is pending, it shall be open for the parties to raise all contentions before the learned Single Judge, who shall consider all the contentions and take a decision.

5. Learned counsel for the appellants submits that during the pendency of the writ petition, the Panchayat has granted renewal of the licence, which, the appellants also intend to

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challenge. There is no impediment for the appellants to challenge any order passed by the Panchayat.

In the above view of the matter, we are of the view that no grounds have been made out to interfere with the order passed by the learned Single Judge. Accordingly, we close the writ appeal. It shall, however, be open for the appellants to make a request for final disposal of the writ petition.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
A.M. SHAFFIQUE
JUDGE**

//TRUE COPY//

P.A. TO JUDGE