

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 4337 of 2009 (N)

PETITIONER(S):

1. P.M.SUNDARI,
W/O. PALANIKUTTY, KADUKAPARAMBIL HOUSE,
CHITTISSERY.P.O, TRICHUR.
2. K.P. PRADEEP,
S/O. PALANIKUTTY, -DO- -DO-
3. MARY @ KUNJAYI, W/O. RAPPAYI,
VADAKETHU HOUSE, PAZHAYI.P.O.,
PUTHUKKAD.

**BY ADVS.SRI.V.M.KRISHNAKUMAR
SMT.P.A.ANITHA**

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY SECRETARY,
INDUSTRIES (A) DEPARTMENT,
SECRETARIAT, TRIVANDRUM.
2. GEOLOGIST, TRICHUR.
3. DISTRICT COLLECTOR, TRICHUR.
4. REVENUE DIVISIONAL OFFICER,
THRISSUR.
5. TAHSILDAR,
MUKUNDAPURAM TALUK, IRINJALAKUDA.

BY GOVERNMENT PLEADER SMT. M.T.SHEEBA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REPORT OF THE TAHSILDAR DATED 05/03/04**
- P2 COPY OF THE REPORT OF THE VILLAGE OFFICER DATED 26/02/04.**
- P3 COPY OF THE MINUTES DATED 10/02/03**
- P4 COPY OF THE NOTICE DATED 30/09/04 OF THE GEOLOGIST**
- P5 COPY OF THE LETTER DATED 01/01/05 OF GEOLOGIST THRISSUR**
- P6 COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY TAHSILDAR TO 1ST PETITIONER DATED 18/11/05**
- P6(A) COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY TAHSILDAR TO 2ND PETITIONER DATED 18/11/05**
- P6(B) COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY TAHSILDAR TO 3RD PETITIONER DATED 18/11/05**
- P7 COPY OF THE JUDGMENT IN WP(C).NO.33751/05 DATED 05/12/05**
- P8 COPY OF THE LETTER DATED 09/12/05 OF GEOLOGIST, THRISSUR**
- P9 COPY OF THE ORDER DATED 22/02/06 OF THE 1ST RESPONDENT**
- P10 COPY OF THE REVISION MEMORANDUM FILED BY PETITIONER DATED 15/12/05**
- P11 COPY OF THE ORDER DATED 19/01/2009 OF THE 1ST RESPONDENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.4337/2009**  
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Dated this the 12th Day of August, 2015

J U D G M E N T

The petitioners challenging revenue recovery proceedings have approached this Court.

2. The revenue recovery proceedings are initiated to recover royalty from the petitioner from under the Mines and Minerals (Development and Regulation) Act, 1957 (for short, the “Act”) .

3. The liability has been fixed as per Ext.P8 order. This was challenged before the Government in appeal and also by a review petition. The petitioners' claim have been rejected by the Government. Pursuant to the rejection of the claim, revenue recovery proceedings are initiated.

4. Heard the learned counsel for the petitioners and the learned Government Pleader.

5. The main ground of challenge of the petitioners is that there are many miners in the State and the Government has not initiated any action for recovery of royalty from those persons. It is also contended that clay is exempted under the Act.

6. The learned Government Pleader submits that the Government has also initiated steps against recovery of royalty from many

others including the persons referred in Ext.P8 notice. It is submitted that clay is not exempted and would come within the First Schedule of the Minor Mineral Concession Rules, 1967.

7. Considering the fact that clay is not exempted and would come within the above schedule, I do not find any infirmity with the impugned order. The petitioners cannot avert their liability alleging that the Government has not initiated action against others. The statutory liability to pay royalty cannot be withheld on account of non payment of royalty by others. I do not find any reason for interfering with the order impugned. Accordingly, the writ petition is dismissed. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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