

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 834 of 2015 (D)

PETITIONER:

**ABDUL NAZAR.P,S/O.KUNJABDULLA HAJI,
AGED 54 YEARS,"THEERAM" EMILY,
KALPETTA NORTH P.O,WYNAD,PIN-673 122**

**BY ADVS.SRI.P.B.KRISHNAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE
SRI.S.NITHIN (ANCHAL)**

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
MINING DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. DISTRICT COLLECTOR,COLLECTORATE,
KALPETTA,WYANAD PIN 673 121.**
- 3. ADDITIONAL DISTRICT MAGISTRATE,
COLLECTORATE,KALPETTA,WYNAD,PIN-673 121.**

***ADDITIONAL R4 IMPEADED**

- 4. *LAND REVENUE COMMISSIONER,
THIRUVANANTHAPURAM.**

***IS ADDITIONAL R4 SUO MOTU IMPEADED AS PER JUDGMENT
DATED 16.1.2015.**

BY SENIOR GOVT. PLEADER SRI.MUHAMMED SHAFI.M.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.834 of 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1:TRUE COPY OF THE ORDER NO. ORDER BEARING NO.
N-2/30012/11.KDIS DATED 27-12-2011.**

**EXHIBIT P2:TRUE COPY OF THE JUDGMENT DATED 29-11-2013 IN WPC NO.2373
OF 2012 BEFORE THIS HON'BLE COURT.**

EXHIBIT P3:TRUE COPY OF THE QUARRYING PERMIT DATED 24-2-2014.

EXHIBIT P4:TRUE COP[Y OF THE CONSENT TO OP[ERATE DATED 2-4-2014.

EXHIBIT P5:TRUE COPY OF THE SHORT FIRE'S CERTIFICATE DATED 19-05-2014.

EXHIBIT P6:TRUE COPY OF THE D & O LICENCE DATED 11-06-2014.

EXHIBIT P7:TRUE COPY OF THE ORDER NO G 5685/13 DATED 16-10-2013.

**EXHIBIT P8:TRUE COPY OF THE CERTIFICATE DATED 18-10-2011 ISSUED BY THE
VILLAGE OFFICER,KALPETTA.**

EXHIBIT P9:TRUE COPY OF THE STATEMENT DATED 10-11-2014.

**EXHIBIT P10:TRUE COPY OF THE ORDER NO.M1/879/2014 DATED 12/2014 OF
THE ADDITIONAL DISTRICT MAGISTRATE,WYNAD.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 834 OF 2015
.....

Dated this the 16th January, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

"1. Issue a writ of certiorari or any other order or direction in the nature thereof calling for the records relating to Ext.P10 and quash the same.

2. issue a writ of mandamus or any other order or direction in the nature thereof directing Respondent No.2 to renew the Explosive licence No.15/2011/Wyd/le-3 issued to the petitioner.

3. issue any other writ, order or direction which this Hon'ble Court deems fit and necessary to grant in the circumstances of the case .

4. Award cost of the proceedings to the petitioner."

2. The learned Counsel for the petitioner points out that Ext.P10 order has been passed by the ADM, but it is pursuant to the instruction given by the second respondent/District Collector

who heard the matter on 10.11.2014 and had visited the quarry along with Geologist, DFO, Addl. Tahsildar and Village Officer, Kalpetta on 15.11.2014 as discernible from paragraph '3' of Ext.P10. This being the position, the petitioner is virtually prevented from challenging the said order by way of appeal before the District Collector.

3. Heard the learned Government Pleader, who does not dispute the factual position as to the culmination of the proceedings vide Ext.P10. The learned Government Pleader also points out that the petitioner could approach the Commissioner for Land Revenue by filing a further appeal, as provided under Section '6F' of the Explosives Act, upon which the matter will be considered and appropriate orders will be passed within the shortest possible time.

4. In the said circumstance, petitioner is set at liberty to approach the said authority by filing an appeal as above. If any such appeal is filed within two weeks from the date of receipt of a copy of this judgment, it shall be considered and disposed of on merits in accordance with law, at the earliest, at any rate, within

two weeks from thereafter. So as to facilitate such exercise, the Commissioner of Land Revenue is 'suo motu' impleaded as the Addl.4th respondent and the learned Govt. Pleader entered appearance for the said respondent as well.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the Addl.4th respondent/Commissioner of Land Revenue for further steps.