

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 2411 of 2015 (B)

PETITIONER(S) :

**M/S.KANNAMTHANAM & CO.,
MALAYAM.P.O, THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING PARTNER,
K.J.THOMASKUTTY.**

**BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.PAUL JACOB (P)
SRI.ENOCH DAVID SIMON JOEL
SRI.S.SREEDEV
SRI.RONY JOSE
SRI.GEORGE A.CHERIAN**

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF MINING AND GEOLOGY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. DIRECTOR,
DIRECTORATE OF MINING AND GEOLOGY, KESAVADASAPURAM,
PATTOM PALACE.P.O, THIRUVANANTHAPURAM-695 004.**
- 3. DISTRICT COLLECTOR,
CIVIL STATION, THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-02-2015, ALONG WITH W.P.(C).NO.2412 OF 2015 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE QUARRYING LEASE DATED 27.05.2005 RELATING TO SY.NO.369/1, 370/8, 370/9, 370/12, 370/4-14 AND 370/1 OF PALLICHAL VILLAGE VALID TILL 26.05.2017
- EXT.P1(A): TRUE COPY OF THE QUARRYING LEASE DATED 10.12.2009 RELATING TO SY.NO.372/15 OF PALLICHAL VILLAGE VALID TILL 09.12.2015
- EXT.P1(B): TRUE COPY OF THE QUARRYING LEASE DATED 29.09.2006 RELATING TO SY.NO.372/16 AND 372/17 OF PALLICHAL VILLAGE VALID TILL 28.09.2018.
- EXT.P1(C): TRUE COPY OF THE CONSENT ISSUED BY THE POLLUTION CONTROL BOARD FOR CARRYING OUT QUARRYING OPERATIONS IN SY.NO.369/1, 370/8, 370/9, 370/12, 370/1 AND 370/4-14.
- EXT.P1(D): TRUE COPY OF THE CONSENT ISSUED BY THE POLLUTION CONTROL BOARD FOR CARRYING OUT QUARRYING OPERATIONS IN SY.NO.372/15.
- EXT.P1(F): TRUE COPY OF THE CONSENT ISSUED BY THE POLLUTION CONTROL BOARD FOR CARRYING OUT METAL CRUSHER UNIT IN SY.NO.371/4.
- EXT.P1(G): TRUE COPY OF THE PANCHAYATH LICENSE DATED 04.04.2014 FOR QUARRYING FROM SY.369/1, 370/8, 370/9, 370/12, 370/4-14, 370/1, 372/15, 372/16 AND 372/17 OF PALLICHAL VILLAGE.
- EXT.P1(H): TRUE COPY OF THE PANCHAYAT LICENSE DATED 04.04.2014 FOR A METAL CRUSHER UNIT.
- EXT.P2: TRUE COPY OF THE STOP MEMO DATED 04.04.2012 ISSUED BY THE VILLAGE OFFICER TO THE PETITIONER.
- EXT.P2(A): TRUE COPY OF THE ORDER DATED 02.05.2012, WITHDRAWING EXT.P2 STOP MEMO, ISSUED BY THE VILLAGE OFFICER.
- EXT.P2(B): TRUE COPY OF THE CERTIFICATE DATED 04.05.2012, ISSUED BY THE VILLAGE OFFICER
- EXT.P3: TRUE COPY OF THE ORDER DATED 22.05.2012 IN W.P.(C).NO.10212/2012.
- EXT.P4: TRUE COPY OF THE ORDER DATED 12.06.2013 IN I.A.7402/13 IN W.P.(C).NO.10212/2012.
- EXT.P5: TRUE COPY OF ONE OF THE ASSIGNMENT ORDERS ISSUED TO ONE OF THE ASSIGNEES.
- EXT.P6: TRUE COPY OF THE F.I.R. DATED 27-12-2014 IN CRIME NO.VC 3/14.

WP(C).No. 2411 of 2015 (B)

EXT.P7: TRUE COPY OF THE JUDGMENT DATED 01/12/2010 IN W.A.1164/2010.

**EXT.P8: TRUE COPY OF THE ORDER DATED 19.01.2015 AND NUMBERED AS
B7/37203/2009 ISSUED BY THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS

**EXHIBIT R3(A): A TRUE PHOTOCOPY OF LETTER NO.3/14/SIU-11
DATED 12.01.2015.**

**EXHIBIT R3(B): A TRUE PHOTOCOPY OF THE REPORT DATED 24.06.2014
PREPARED BY THE 3RD RESPONDENT ALONG WITH
THE DISTRICT POLICE CHIEF, THIRUVANANTHAPURAM CITY.**

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

**W.P(C). Nos. 2411, 2412, 2413, 2581,
2587 & 2591 of 2015**

Dated this the 24th day of February, 2015

J U D G M E N T

The issue involved in all these cases is with regard to the challenge raised against Ext.P8 order dated 19.01.2015, whereby the District Collector in exercise of the powers stated as vested with him, intercepted the quarrying operations being pursued by the petitioners for a period of one month. Pleadings and proceedings are referred to, as given in WP(C) No.2411 of 2015.

2. The case of the petitioners is that, there is absolutely no power, jurisdiction or competence for the 3rd respondent to have issued the said order, more so when, the quarrying activities are being pursued by the petitioners on the basis of valid licences/permits and such other clearances issued from different corners.

3. The relief sought for, was opposed by the learned Government Pleader pointing out that, Ext.P8 was issued with a specific purpose especially, in view of the mounting instances of violation of the relevant provisions of law, the terms of permit/licence and such other incriminating circumstances

resulting in mass scale excavation being pursued quite unauthorisedly, also causing much threat to the environmental equilibrium of the District and the State in turn. Several litigations have been filed before this Court individually and also as Public Interest Litigations and different verdicts/interim orders have been passed. The matter had to be considered in detail, also with reference to the large scale public protest being raised by the local inhabitants. It was also necessary to identify the properties concerned, with reference to the title of the parties concerned and the lease if any, as the case may be, so as to confine the activities within the permitted area and extent. It was more so, because of the fact that large scale encroachment and excess excavation were brought to the notice of the authorities concerned, who have taken steps with an intent to measure the properties with notice to all the parties concerned, so as to permit the eligible hands to pursue the quarrying operations within their permitted area, to the permissible extent. It was in the said circumstances that the District Magistrate felt it extremely to have passed Ext.P8 order on 19.01.2015. It was accordingly, that a period of '**one month**' was clearly prescribed to carry out the

entire operations in connection with the said exercise, prohibiting all quarrying operations, so as to facilitate proper measurement, demarcation and such other steps. These writ petitions were adjourned accordingly, by passing an order on 03.02.2015, based on the submission made on the part of the respondents that, the operation of the impugned order was to be in effect only till '19.02.2015'.

4. Today, when the matters are taken up for further consideration, the learned Government Pleader for the respondents submits on instructions that, in spite of the clear stipulation in Ext.P8 order requiring the parties concerned to produce the relevant records, no documents were produced by them. The said submission is sought to be rebutted by the learned counsel for the petitioners stating that, all the relevant documents were produced by the petitioners and that the version of the respondents is not correct or sustainable. In any view of the matter, it cannot be said that the respondents concerned were not having any other records to complete the process and no extension of time was sought for from this Court. Even otherwise, the scope of Ext.P8 order was more with reference to

the need to lay the boundaries, effecting the measurement and to fix the boundaries. If there is any encroachment, it is always open for the concerned authorities to intervene at any stage, taking appropriate steps in accordance with law, with notice to the parties concerned. This being the position, this Court is of the view that, Ext.P8 order has stood its time and object and the purpose cannot be stated as not over, to be prolonged and protracted, if the petitioners are otherwise eligible to carry out operations in accordance with law.

5. The learned Government Pleader points out that, the term of the licences of the petitioners is already over. This Court does not intend to go into the said aspect, as it does not form the subject matter of consideration of this Court in these writ petitions.

All these writ petitions are disposed of accordingly.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.