

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 2634 of 2015 (D)

PETITIONER :

**PADMAKUMARIAMMA, AGED 55 YEARS,
D/O.VASUDEVAN NAIR, POYKAYIL THEKKETHIL VEEDU,
VETTIYAR MURI, VETTIYAR VILLAGE, MAVELIKKARA TALUK,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.AJITH MURALI

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- 2. THE DISTRICT COLLECTOR,
ALAPPUZHA ALAPPUZHA DISTRICT. 688 001.**
- 3. THE REVENUE DIVISIONAL OFFICER,
CHENGANNUR, ALAPPUZHA DISTRICT. 689 121.**
- 4. THE ADDITIONAL TAHSILDAR,
TALUK OFFICE, CHENGANNUR TALUK,
ALAPPUZHA DISTRICT. 689 121.**
- 5. THE VILLAGE OFFICER,
VETTIYAR VILLAGE, MAVELIKKARA TALUK,
ALAPPUZHA DISTRICT. 688 001.**
- 6. THE SECRETARY
THAZAKKARA GRAMA PANCHAYATH, MAVELIKKARA TALUK
ALAPPUZHA DISTRICT. 688 001.**
- 7. THE SENIOR GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY
MAVELIKKARA TALUK, ALAPPUZHA DISTRICT. 688 001.**

R1 TO R5 & R7 BY GOVERNMENT PLEADER SRI. M.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: COPY OF THE REPORT NO.C8-9304/14/C8 PREPARED BY THE 4TH RESPONDENT DATED 29.05.14.
- EXHIBIT P2: COPY OF THE NOC NO.2494/2014 DATED 05.06.14 PREPARED BY THE 3RD RESPONDENT TO THE 7TH RESPONDENT.
- EXHIBIT P3: COPY OF THE PERMIT NO.47/14-15/MM/OE/DOA/1407/2014 DATED 11.07.14 ISSUED BY THE 7TH RESPONDENT.
- EXHIBIT P4: COPY OF THE ORDER NO.36/2014-15/MM/OE/DOA/1451/2014 DATED 18.07.14 ISSUED BY THE 7TH RESPONDENT.
- EXHIBIT P5: COPY OF THE STOP MEMO NO.258/2014 DATED 21.07.14 ISSUED BY THE 5TH RESPONDENT, VILLAGE OFFICE, VETTIYAR VILLAGE.
- EXHIBIT P6: COPY OF THE ORDER WPC NO.33254/2014 DATED 12.12.14 OF THIS HONOURABLE COURT VILLAGE.
- EXHIBIT P7: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 7TH RESPONDENT DATED 26.12.2014 11.
- EXHIBIT P8: COPY OF THE ORDER NO.D.O.A/1451/MM/2014 DATED 16.01.15 ISSUED BY THE 7TH RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.2634 of 2015

Dated this the 25th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i) Issue a writ certiorari or any other appropriate writ, order or direction quashing Ext-P8 order,

ii) Issue a writ of certiorari or any other appropriate writ order of direction, commanding 7th respondent to extend the period of Exhibit P4 P-Form to the already issued by the 7th respondent to the petitioner to remove red earth from the property in Sy. No.459/17, in Block No.6 of Vettyiar Village, Mavelikkara Taluk under the provisions of the Kerala Minor Mineral Concession Rule without environmental clearance.

iii) Issue such other appropriate writ, order or direction as this Hon'ble Court deem fit and proper, in the circumstances of the case."

2. The learned counsel for the petitioner submits that, this is the second round of litigation that the petitioner is compelled to pursue before this Court. Earlier, WP(C) No.33524 of 2014 was filed, which was disposed of as per Ext.P6 judgment dated 12.12.2014, directing the 7th respondent to consider the

application filed by the petitioner for granting the necessary permit to transport the 'ordinary earth' from the property concerned. Pursuant to the said judgment, the matter was considered by the 7th respondent, who instead of passing an order, simply forwarded the matter to the Secretary to the Local Authority as per Ext.P8 dated 16.01.2015, which is totally uncalled for and contrary to the scheme of the statute and the direction given by this Court as per Ext.P6 judgment. This made the petitioner to approach this Court by filing the writ petition.

3. Heard the learned Government Pleader as well, who points out that the 7th respondent reconsidered the matter on the same date and an order was passed on 16.01.2015, rejecting the application preferred by the petitioner, based on the interim order dated 16.12.2014 passed by a Division Bench of this Court in WP(C) No.4662 of 2014 and connected cases. It is brought to the notice of this Court during the course of hearing that, the aforesaid matters have been finalised by the Division Bench by passing a detailed judgment on 23.02.2015. As per the said verdict, the matter has to be reconsidered by the 7th respondent.

4. In the said circumstances, there will be a direction to the 7th respondent to reconsider the matter and pass appropriate orders in accordance with law, which shall be done at the earliest, at any rate, within 'two weeks' from the date of receipt of a copy of this judgment. Ext.P8 will stand set aside and it is made clear that the order stated as passed by the 7th respondent on 16.01.2015, rejecting the application based on the interim order dated 16.12.2014 in WP(C) No.4662 of 2014 and connected cases, will not having any significance or relevance for considering the matter as aforesaid.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 7th respondent, for further steps.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

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