

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 2834 of 2015 (D)

PETITIONER :

**NAZIYA,
W/O ABDUL GAFOOR, AGED 23 YEARS,KANJIRAPULLIL HOUSE,
MANNALAMKUNNU P.O., PUNNAYOOR VILLAGE,
CHAVAKKAD TALUK, THRISSUR DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
MALAPPURAM DISTRICT-689 645.**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM, THIRUVANANTHAPURAM-695 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY JOINT SECRETARY TO GOVERNMENT,
INDUSTRIAL DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

R1 TO R3 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 2834 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE BUILDING PERMIT 23.10.2014 ISSUED BY THE SECRETARY, ALAMKODE GRAMA PANCHAYATH.**
- EXHIBIT P2: TRUE COPY OF THE G.O.(P) NO.93/2014/ID DATED 30.6.2014 ISSUED BY THE GOVERNMENT OF KERALA.**
- EXHIBIT P3: TRUE COPY OF THE JUDGMENT DATED 30.10.2014 IN WPC NO.28539 OF 2014 OF THIS HONOURABLE COURT.**
- EXHIBIT P4: TRUE COPY OF THE ORDER DATED 18.12.2014 ISSUED BY THE FIRST RESPONDENT.**
- EXHIBIT P5: TRUE COPY OF THE CERTIFICATE DATED 20.12.2014 ISSUED BY THE REGISTERED BUILDING SUPERVISOR, DEPARTMENT OF URBAN AFFAIRS, GOVERNMENT OF KERALA DATED 20.12.2014.**
- EXHIBIT P6: TRUE COPY OF THE JUDGMENT DATED 19.12.2014 IN WPC NO.34805 OF 2014 OF THIS HONOURABLE COURT.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.2834 OF 2015

Dated this the 3rd day of February, 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 appropriate writ, direction or order by calling for the records leading to the issuance of exhibit P4 order and set aside the same as illegal.*
- 2. Issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent to issue sufficient P forms to the petitioner to transport earth from his property without insisting the petitioner to use the earth removing by him for fill the pits in the adjacent land.”*

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader.

3. The learned Government Pleader points out that pursuant to the verdict passed by this Court in W.P.(C) No.28539/2014, the matter was considered and was accordingly a detailed order was passed as per Ext.P4 which is not liable to be assailed under any circumstance. It is also pointed out that there was large scale excavation in the nearby property

including the property of the petitioner and that there was wide public protest. Pursuant to this, the matter was considered by the District Collector, who issued a prohibitory order apprehending the chance for landslide, it being a property situated in a hilly area. It is without revealing the full facts and figures that the petitioner approached this Court and this being the position, there is nothing arbitrary or illegal on the part of the Geologist in having issued Ext.P4.

After hearing both the sides, this Court finds that this is not a fit case to call for interference invoking the discretionary jurisdiction of this Court under Article 226 of the Constitution of India. If the petitioner is aggrieved of the scope of the judgment as per Ext.P3 and if the order passed by the 1<sup>st</sup> respondent vide Ext.P4 is contrary to the mandate of Ext.P3, the remedy of the petitioner is something else. Interference is declined. Petition is dismissed.

**sd/-**

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