

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 5086 of 2015 (I)

PETITIONER(S):

**KOMALAN,
S/O.MADHAVAN, MEENATHUVILAYIL,
KADUVINAL P.O. VALLIKUNNAM,
ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.G.HARIHARAN,
SRI.PRAVEEN.H.**

RESPONDENT(S):

**SENIOR GEOLOGIST,
MINING & GEOLOGY DEPARTMENT,
ALAPPUZHA DISTRICT OFFICE,
CHERTHALA, ALAPPUZHA DISTRICT-688 524.**

BY SR. GOVT. PLEADER SRI.K.C. VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 - TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE DISTRICT COLLECTOR, ALAPPUZHA DATED 22-05-2013.
- EXT.P2 - TRUE COPY OF THE PROCEEDINGS NO.Q/P.NO.103/13-14/MM/LBS/DOA/506/2014 DATED 10-03-2014 ISSUED BY THE RESPONDENT.
- EXT.P3 - TRUE COPY OF THE JUDGMENT MADE IN WP(C).NO.14356/2014 DATED 15-07-2014.
- EXT.P4 - TRUE COPY OF THE NOTICE DATED 09-01-2015 ISSUED BY THE RESPONDENT STOPPING THE EXTRACTION OF LATERITE STONE ON THE STRENGTH OF EXHIBIT P2 PERMIT.
- EXT.P5 - TRUE PHOTOGRAPH OF THE PREMISES IN WHICH THE LATERITE STONE IS BEING EXTRACTION ON THE STRENGTH OF EXHIBIT P2 PERMIT.
- EXT.P6- TRUE COPY OF THE OBJECTION DATED 19/01/2015 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 5086 of 2015

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Dated, this the 6th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

"(i) Issue a writ of certiorari or any other appropriate writ or order quashing Exhibit P3 stop memo issued by the respondent.

(ii) Issue a writ of mandamus or any other appropriate writ or order commanding the respondent to file a written complaint before a competent court authorized under Rule 59 of the Kerala Minor Mineral Concessions Rules against the violation if any committed by the petitioner as against the conditions stipulated in Ext. P2 permit.

And

(iii) To pass such other orders or reliefs as this Hon'ble Court deems fit in the interest of justice.

2. The petitioner is challenging Ext. P4 notice dated 09.01.2015, whereby violation on the part of the petitioner with regard to the relevant provisions of Kerala Minor Mineral Concession

Rules and specific conditions mentioned in Ext. P2 permit has been brought to notice, asking the petitioner to submit objection, if any, and to stop all the activities with regard to the excavation until further orders. This in turn is under challenge in this writ petition.

3. During pendency of the writ petition, the petitioner filed I.A. No. 3860 of 2015, producing copy of the objection preferred by the petitioner, vide Ext. P6, in response to Ext. P4 notice. The learned counsel for the petitioner submits that the only prayer now pressed before this Court is to cause the same to be considered within a reasonable time.

4. A statement has been filed on behalf of the respondent, paragraph 4 of which reads as follows :

"4. The exhibit P4 memo is a legal document issued under authority. As per rules 58 (2) the petitioner herein is legally bound to remit the annual consolidated royalty as enumerated in the next higher slab of already paid royalty in part B scheduled V of KMMC Rules since, he has conducted the quarrying outside the precise area allotted under exhibited P2."

5. The learned Government Pleader submits that there is excess excavation from the part of the petitioner and as such the

petitioner is bound to satisfy the royalty amount mentioned therein.

6. After hearing both the sides, the writ petition is disposed of, directing the respondent to consider Ext. P6 objection preferred by the petitioner in response to Ext. P4, in accordance with law, after affording an opportunity of hearing to the petitioner, at the earliest, at any rate, within one month. It is made clear that no further activities shall be pursued by the petitioner till the orders are passed by the respondent on Ext. P6.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the respondent for further steps.

Sd/-

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

kmd