

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY**

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 6904 of 2015 (K)

PETITIONER:

**MUHAMMED SUBAIR, AGED 45 YEARS,
S/O.PAREEKUTTY, MULLAPPILLY HOUSE, NEDUMTHODE
MUDICKAL PO, ERNAKULAM DISTRICT PIN-683 547.**

**BY ADVS.SRI.ESM.KABEER
SRI.E.S.ASHRAF**

RESPONDENTS:

- 1. THE STATE OF KERALA
REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
HOME AFFIARS DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.**
- 2. THE SUPERINTENDENT OF POLICE (RURAL)
ALUVA, ERNAKULAM DISTRICT PIN-683 101.**
- 3. THE CIRCLE INSPECTOR OF POLICE,
KURUPPAMPADY, ERNAKULAM DISTRICT, PIN-683 547.**
- 4. THE SUB INSPECTOR OF POLICE,
KURUPPAMPADY, ERNAKULAM DISTRICT, PIN-683 545**
- 5. ADV.MADHU,
GEETHA BHAVAN, PULLUVAZHI, PERUMBAVOOR PO
MALAMURI PIN-683 547, ERNAKULAM DISTRICT.**
- 6. HANEEFA,
S/O.RAZACK, EDANGAPARAMBIL, PERUMBAVOOR PO
MALAMURI PIN-683 547.**

Addl.7. THE GEOLOGIST

**DEPARTMENT OF MINING AND GEOLOGY, DISTRICT OFFICE
ERNAKULAM, KOCHI - 30.**

ADDL.R7 IMPEADED AS PER ORDER DATED 12.03.2015 IN IA NO.3616/15.

**R1 -R 4 BY STATE ATTORNEY SRI. P. VIJAYARAGHAVAN
R5 & R6 BY ADVS. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- EXT P1 :** TRUE COPY OF THE BUILDING PERMIT DATED 29-08-2014 ISSUED BY THE RAYAMANGALAM GRAMA PANCHAYATH.
- EXT P2 :** TRUE COPY OF THE PERMISSION GRANTED BY THE GEOLOGIST DATED 24-02-2015 FOR REMOVING THE GRANITE RUBBLE BLOCK.
- EXT P3 :** TRUE COPY OF THE CERTIFICATE ISSUED BY THE VILLAGE OFFICER.
- EXT P3 (A) :** TRUE COPY OF THE ENGLISH TRANSLATION OF EXT P3 CERTIFICATE.
- EXT P4 :** TRUE COPY OF THE RECEIPT SHOWING PAYMENT OF ROYALTY AMOUNT.
- EXT P5 :** TRUE COPY OF THE RECEIPT ISSUED FROM THE POLICE STATION DATED 27-02-2015.
- EXT P6 :** TRUE COPY OF THE COMPLAINT DATED 27-02-2015.
- EXT P6(A) :** TRUE COPY OF THE ENGLISH TRANSLATION OF EXT P6 COMPLAINT.
- EXT P7:** TRUE COPY OF THE APPROVED BUILDING PERMIT
- EXT P8:** TRUE COPY OF THE RECEIPT OF COMPLAINT ISSUED FROM THE POLICE STATION ON 06.03.2015
- EXT P9:** TRUE COPY OF THE INFORMATION RECEIVED FROM THE ENQUIRY COUNTER OF THE HONOURABLE HIGH COURT
- EXT P10:** TRUE COPY OF THE PHOTOGRAPHS TAKEN FROM THE SITE
- EXT P11:** TRUE COPY OF THE PROCEEDINGS NO.A5 - 1644/15 DATED 03.03.2015 OF THE SECRETARY, RAYAMANGALAM GRAMA PANCHAYTH
- EXT P11(A)** TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P11.

RESPONDENT'S EXHIBITS

- EXT R5(A) TRUE PHOTOCOPY OF THE NOTICE NO.D.O.E./5791/E2/14, DATED
28.02.2015 ISSUED BY THE GEOLOGIST, MINING AND GEOLOGY
DEPARTMENT, ERNAKULAM WITH THE ATTACHED SKETCH ALONG WITH
ITS TRUE ENGLISH TRANSLATION**
- EXT R5(B) SOME PHOTOGRAPHS OF THE PLACE WHERE THE QUARRYING
OPERATIONS ARE CARRIED OUT**

/TRUE COPY/

PA TO JUDGE

JJJ

ASHOK BHUSHAN, C.J.
&
SHAJI P. CHALY, J.

W.P.(C) No. 6904 of 2015 (K)

Dated this the 10th day of April, 2015

J U D G M E N T

Ashok Bhushan, C.J.

Heard the learned counsel for the petitioner, the learned State Attorney and the learned counsel appearing for the private respondents.

2. By this writ petition the petitioner has come up with the following prayers:

"(i) Issue a writ of mandamus directing the official respondents to provide sufficient and effective police protection to the petitioner, his contractor and workers to carry on with the house construction in Re-Sy.No. 58/1-9 in Block No.19 of Rayamangalam Village in terms of Exhibit P1 and P2, without any obstruction from respondents 5 and 6 or their men or from anybody else;

- (ii) Declare that the inaction on the part of the official respondent to provide sufficient and effective police protection to the petitioner for the house construction is illegal and arbitrary;
- (iii) Issue any writ order or direction commanding the respondents 2 to 4 to take up the complaints submitted by the petitioner in the matter and do the remedial action thereof forthwith;"

3. The petitioner's case in the writ petition is that he has obtained permission as per Ext.P2 to transport Granite (building stone) from Resurvey No.58/1-9, based on the strength of building permit obtained, for the construction of residential building. Permission was granted for 400M³ of granite rubble blocks and the required passes were also issued.

4. The private respondents have submitted that the petitioner, under the guise of the said permit, is actually carrying on mining operations which he was not entitled to and it is further submitted that the petitioner is, in fact, carrying on mining operations in the adjoining area also, without any permit.

5. Learned counsel for the petitioner submits that he could not remove the requisite quantity due to the obstruction created by the private respondents.

6. Learned State Attorney has pointed out that the period for which the permission (Ext.P2) was granted was only till 23.3.2015 and is already over.

7. In view of the submissions of the learned counsel for the parties, we are of the view that in the event the petitioner makes an application for extension of time, the Geologist shall determine as to whether the specific quantity has been taken out or not and further, under the guise of

the said order, the petitioner will not be permitted to carry on any mining operations. In the event any permission is granted to the petitioner, the Police authorities shall take appropriate steps as per the directions made above.

The writ petition is disposed of with the above observation.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
SHAJI P. CHALY,
JUDGE.