

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 7056 of 2015 (F)

PETITIONER:

**M.K.PRATHAPAN,
S/O.KARUNAKARAN, AGED 44 YEARS,
MOOTHEDATH HOUSE, MEVALLUR P.O,
MULAKULAM VILLAGE, VAIKOM TALUK,
KOTTAYAM DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
VELLOOR POLICE STATION,
KOTTAYAM DISTRICT, PIN-686 141.**
- 2. THE INSPECTOR,
KADATHURUTHY POLICE STATION,
KOTTAYAM DISTRICT, PIN-686 141.**
- 3. THE TAHASILDAR, VAIKOM TALUK,
KOTTAYAM DISTRICT, PIN-686 141.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 7056 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT P1 : TRUE COPY OF THE DEALERS LICENCE DATED 09-07-2014 ISSUED BY THE SENIOR GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY KOTTAYAM DISTRICT TO THE PETITIONER.

EXT P2 : TRUE COPY OF THE LICENSE DATED 17-12-2014 ISSUED BY THE SECRETARY, MULAKULAM GRAMA PANCHAYAT.

EXT P3 : TRUE COPY OF THE CERTIFICATE ISSUED BY THE DISTRICT MEDICAL OFFICER, KOTTAYAM, DATED 04-11-2014 ISSUED TO THE PETITIONER'S BRICK MANUFACTURING UNIT.

EXT P4 : TRUE COPY OF LICENCE GRANTED TO THE PETITIONER DATED 31-01-2014 UNDER FACTORIES AND BOILERS ACT.

EXT P5 : TRUE COPY OF THE CONSENT TO OPERATE DATED 28-12-2012 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD.

EXT P6 : TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 20-12-2014 IN WPC.NO.35169 OF 2014.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.7056 of 2015

Dated this the 10th day of March, 2015

JUDGMENT

The petitioner seeks for a direction against the respondents not to interfere with the business of the petitioner in mixing the clay and other raw materials with the help of mechanical devices deployed in the brick manufacturing unit, belonging to the petitioner.

2. The learned counsel for the petitioner submits that, there is no taboo in making use of the mechanical devices, for the activities being pursued by the petitioner, with regard to the production of bricks and the same stands settled by virtue of the law declared by this Court as per the decision reported in **Boban Joseph and others Vs. Manikandan Nair and others [2010 (3) KLT 295]**. The activity being pursued by the petitioner is stated as only mixing the clay with other raw materials and this cannot be intercepted by the respondents in any manner.

3. The learned Government Pleader points out that, the averments and allegations raised by the petitioner against the respondents are not correct and that no interference has been made by the respondents with regard to the mixing operation being pursued by the petitioner in the premises. As a matter of fact, the land in question was earlier a 'paddy land' and an information was received that the petitioner was doing large scale excavation from the said property, to retrieve clay and to make use of the same for manufacturing bricks, which is a forbidden activity. It is in the said circumstances that, periodic inspections are being conducted, and if any violation is noted, it is liable to be proceeded against.

4. The learned counsel for the petitioner asserts and undertakes that, no such excavation exercise is being pursued by the petitioner from the property and that the entire raw material/clay is being brought from outside.

5. After hearing both the sides, the writ petition is disposed of, making it clear that the respondents are at liberty to conduct periodic inspection in the premises to see whether any excavation

is being done by the petitioner in the property and if so, to take appropriate action in accordance with law, if at all violation of any provisions of law, permit, licence etc. is involved. Mixing the clay with other raw materials, making use of mechanical devices, shall not be interfered with in any manner.

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

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

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