

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 10858 of 2012 (F)

PETITIONER :-

**A.K. MOHANAN, S/O.AYYAPPAN,
AMBATTU HOUSE, PALAKKUZHA P.O.,
ILLIKUNNU, KOOHATTUKULAM,
ERNAKULAM - 686 662.**

**BY ADVS.SRI.S.SUBHASH CHAND
SRI.SHINDO VARGHESE**

RESPONDENTS :-

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE,
ERNAKULAM - 682 030.**
- 2. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA.**
- 3. KERALA STATE POLLUTION CONTROL BOARD,
OFFICE OF THE KERALA STATE POLLUTION
CONTROL BOARD,
THIRUVANANTHAPURAM,
REPRESENTED BY ITS MEMBER SECRETARY - 695 001.**
- 4. THE DISTRICT ENVIRONMENTAL ENGINEER,
OFFICE OF THE DISTRICT ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
ERNAKULAM - 682 011.**
- 5. PALAKKUZHA GRAMA PANCHAYAT,
OFFICE OF THE PALAKKUZHA GRAMA PANCHAYAT,
PALAKKUZHA P.O.- 686 662
REPRESENTED BY ITS SECRETARY.**

6. THE SECRETARY,
PALAKKUZHA GRAMA PANCHAYAT,
OFFICE OF THE PALAKKUZHA GRAMA PANCHAYAT,
PALAKKUZHA P.O.- 686 662.

7. JAMES VARGHESE, S/O.VARGHESE,
CHELAPPARAMBATHU PUTHENPURAYIL HOUSE,
PALAKKUZHA P.O. - 686 662.

ADDL. R8. THE GEOLOGIST,
OFFICE OF THE GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
ERNAKULAM

ADDL. R8 IS IMPEADED AS PER ORDER DATED 05.06.2012 IN I.A.NO.6900/2012.

R1 & R2 BY GOVERNMENT PLEADER SRI.MOHAMMED SHAFI M.
R3 & R4 BY ADV. SRI. M.AJAY, SC, KERALA STATE POLLUTION
CONTROL BOARD
R6 BY ADVS. SRI.N.K.KARNIS
SRI.KURUVILLA JOHN
R7 BY ADVS. SRI.K.ABDUL JAWAD
SRI.MATHEW A KUZHALANADAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS :-

- EXHIBIT P1 :- TRUE COPY OF THE SKETCH PREPARED BY THE TALUK SURVEYOR, MUVATTUPUZHA.
- EXHIBIT P2 :- TRUE COPY OF THE COMPLAINT DATED 29-12-2010 SUBMITTED BY THE PETITIONER AND AFFECTED PARTIES BEFORE RESPONDENT NO.1.
- EXHIBIT P3 :- TRUE COPY OF THE COMPLAINT SUBMITTED ON 16-01-2012 IN THE OFFICE OF RESPONDENT NO.6.
- EXHIBIT P4 :- TRUE COPY OF THE RECEIPT EVIDENCING RECEIPT OF EXT.P3 COMPLAINT.
- EXHIBIT P5 :- TRUE COPY OF THE RELAVANT CIRCULAR ISSUED BY RESPONDENT NO.3 INDICATING THE DISTANCE FOR ESTABLISHING A STONE QUARRY.
- EXHIBIT P6 :- TRUE COPY OF THE COMPLAINT DATED 16-04-2012 BEFORE RESPONDENT NOS.2, 3, 4 AND 6 WITHOUT ANNEXURES.
- EXHIBIT P7 :- TRUE COPY OF THE RESOLUTION NO.11 DATED 28.04.2012 PASSED BY RESPONDENT NO.5, PALAKKUZHA GRAMA PANCHAYAT COMMITTEE.
- EXHIBIT P8 :- TRUE COPY OF THE LICENCE DATED 03.05.2012 ISSUED BY RESPONDENT NO.6.
- EXHIBIT P9 :- A TRUE COPY OF THE CIRCULAR DATED 20.07.2011 ISSUED BY RESPONDENT NO.3.
- EXHIBIT P10 :- A TRUE COPY OF CERTIFIED COPY DATED 06.08.2012 OF THE INSPECTION REPORT.
- EXHIBIT P11 :- TRUE COPY OF THE ORDER DATED 14.09.2012 PASSED BY RESPONDENT NO.2.
- EXHIBIT P12 :- TRUE COPY OF THE CONSENT TO OPERATE/RENEWAL DATED 19.12.2012 ISSUED BY RESPONDENT NO.4.
- EXHIBIT P13 :- A TRUE COPY OF THE PETITION DATED 07.08.2012 SUBMITTED BEFORE RESPONDENT NO.4.

EXHIBIT P14 :- PHOTOGRAPH SHOWING THE CRACK OCCURRED ON THE WALL OF ONE OF THE BUILDING OF THE PETITIONER.

EXHIBIT P15 :- TRUE COPY OF THE REPORT DATED 09.03.2013 OF THE SUB INSPECTOR OF POLICE, KOTHATTUKULAM TO THE DISTRICT POLICE CHIEF, RURAL, ALUVA.

EXHIBIT P16 :- TRUE COPY OF THE COMMUNICATION DOE/4596/E2/13 DATED 04.10.2013 ISSUED BY RESPONDENT NO.8.

EXHIBIT P17 :- TRUE COPY OF THE JUDGMENT DATED 28.06.2013 PASSED BY THIS HON'BLE COURT IN W.P.(C)NO.8786/2013 (W)

RESPONDENT(S)' EXHIBITS :-

EXHIBIT R4(1) :- A TRUE COPY OF THE LOCATION SKETCH ISSUED BY THE VILLAGE OFFICER DATED 20.06.2012 COUNTERSIGNED BY THE TAHASILDAR DATED 25.06.2012.

EXHIBIT R4(2) :- A TRUE COPY OF THE CIRCULAR NO.PCB/TAC/MOEF/416/08 DATED 05.12.2012.

EXHIBIT R4(3) :- A TRUE COPY OF THE CONSENT TO OPERATE RENEWAL NO.PCB/DO2-EKM/ICO - QR-20/F/2011 DATED 10.08.2011.

EXHIBIT R4(a) :- COPY OF THE LOCATION SKETCH ISSUED BY VILLAGE OFFICER DATED 20.06.2012.

EXHIBIT R7(a) :- TRUE COPY OF THE QUARRYING PERMIT NO.15/11-12/MM/GS/CRPS/DOE/1007/E2/11, DATED 10.05.2011 ISSUED TO THE 7TH RESPONDENT.

EXHIBIT R7(b) :- TRUE COPY OF THE LOCATION SKETCH DATED 26.11.2012 ISSUED TO THE 7TH RESPONDENT BY THE VILLAGE OFFICER, PALAKKUZHA.

EXHIBIT R7(c) :- TRUE COPY OF THE CONSENT DATED 10.08.2011 TO THE 7TH RESPONDENT BY THE POLLUTION CONTROL BOARD

**EXHIBIT R7(d) :- TRUE COPY OF THE PROCEEDINGS NO.D.DIS./6920/2011
DATED 09.03.2012 ISSUED BY THE ADDITIONAL DISTRICT
MAGISTRATE, ERNAKULAM.**

**EXHIBIT R7(e) :- TRUE COPY OF THE LICENCE DATED 23.03.1998 ISSUED TO
THE N.A. THOMAS.**

EXHIBIT R7(f) :- TRUE COPY OF THE CONSENT OF THOMAS N.A.

**EXHIBIT R7(g) :- TRUE COPY OF THE LICENCE DATED 03.05.2012 ISSUED TO
THE 7TH RESPONDENT BY THE 6TH RESPONDENT.**

**EXHIBIT R7(h) :- TRUE COPY OF THE QUARRYING PERMIT
NO.22/12-13/MM/GS/CRPS/DOE/1831/E2/12, DATED 18.05.2012
ISSUED TO THE 7TH RESPONDENT.**

**EXHIBIT R7(i) :- TRUE COPY OF THE DEMAND DRAFT DATED 07.05.2012 FOR
₹3,525/- EVIDENCING THE PAYMENT OF APPLICATION
FEE ON RENEWAL APPLICATION.**

**EXHIBIT R7(j) :- TRUE COPY OF THE RENEWAL LICENCE DATED 19.12.2012 ISSUED
TO THE 7TH RESPONDENT.**

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//TRUE COPY//

P.A. TO JUDGE

ANIL K.NARENDRA, J.

W.P.(C)No.10858 of 2012

Dated this the 9th day of March, 2015

JUDGMENT

The petitioner has approached this Court in this Writ Petition seeking a writ of mandamus or any other writ, order or direction commanding respondents 1 to 6 to refrain from permitting respondent No.7 from conducting a stone quarry in the property comprised in Survey No.425/1-2 of Palakkuzha Village in Muvattupuzha Taluk. The petitioner has also sought for a writ of certiorari to quash Ext.P7 resolution No.11 dated 28.04.2012 passed by the committee of the 5th respondent Grama Panchayath, Ext.P8 licence dated 03.05.2012 granted by the Panchayat to respondent No.7 to run a granite quarry and Ext.P12 consent to operate (renewal) dated 19.12.2012 granted to the quarry owned by respondent No.7 by the 4th respondent District Environmental Engineer of the Kerala State Pollution Control Board.

2. A counter affidavit has been filed on behalf of the respondent No.8, the Geologist, Department of Mining and

Geology, Ernakulam. Paragraphs 5 and 6 of the counter affidavit read thus;

“5. It is humbly reported that the quarrying permit granted expired on 17.05.2013. Sri.James Varghese has submitted an application for renewal on 02.05.2013 and the inspection conducted on 28.05.2013 revealed that the applied area does not satisfy Rule 8(1)(a) of Kerala Minor Mineral Concession Rules, 1967 and hence the application for renewal was not considered. It is also true that complaint has been received by this respondent and the site was inspected in the presence of the petitioners and made sure that presently the area does not satisfy Rule 8(1)(a), as depth has already exceeded the permissible limit of 6 meters.

6. It is humbly reported that the quarry was not functioning since 15.09.2012 due to the stop memo issued by the Revenue Divisional Officer, Muvattupuzha. It is humbly reported that the quarrying permit granted expired on 17.05.2013 and that presently the area does not satisfy Rule 8(1)(a), as depth has already exceeded the permissible limit of 6 meters.”

3. Today, when the case was taken up for hearing, the learned counsel for the petitioner submitted that, the writ petition may be disposed of recording the above statement made in the counter affidavit filed by respondent No.8. Heard both sides.

4. Going by the statement made in the counter affidavit filed by respondent No.8, the Geologist concerned, the quarrying permit granted to respondent No.7 has already expired on 17.05.2013. The 7th respondent has submitted an application for renewal on 02.05.2013 and an inspection was conducted on 28.05.2013, in which it was revealed that the applied area does not satisfy Rule 8(1)(a) of the Kerala Minor Mineral Concession Rules, 1967. Hence the application submitted by respondent No.7 for renewal was not considered. Respondent No.8 has also reported that, the quarry owned by respondent No.7 is not functioning since 15.09.2012 due to the stop memo issued by respondent No.2, the Revenue Divisional Officer, Muvattupuzha. The quarrying permit granted to respondent No.7 expired on 17.05.2013 and that presently the area does not satisfy Rule 8(1)(a) of the Kerala Minor Mineral Concession Rules, 1967, as the depth has already exceeded the permissible limit of 6 meters.

5. In the result, this writ petition is disposed of recording the above statement made in the counter affidavit filed by respondent No.8 that, the quarrying permit granted

to respondent No.7 expired on 17.05.2013 and that the quarry is not functioning since 15.09.2012 due to the stop memo issued by respondent No.2, the Revenue Divisional Officer, Muvattupuzha. In case respondent No.7 resumes quarrying operation in the land in question comprised in Survey No. 425/1-2 of Palakkuzha Village in Muvattupuzha Taluk, in violation of any statutory requirements, it is for the petitioner to approach respondent Nos. 2, 4, 6 and 8 for their interference, to ensure that no quarrying operation is being carried out by respondent No.7 in contravention of the statutory requirements.

No order as to costs.

Sd/-
ANIL K.NARENDRA
JUDGE

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P.A. TO JUDGE