

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No. 8487 of 2015 (I)

PETITIONER:

M/S.COCHIN GRANITES PULICKAL ASSOCIATES
NORTH MAZHUVANNOOR P.O., CHEENIKUZH, PERUMBAVOOR
REPRESENTED BY ITS MANAGING PARTNER, ELDHO KURUVILA
S/O.T.U.KURUVILA, AGED 37, THOMBRAIYIL HOUSE
CHELAD P.O., KOTHAMANGALAM, PIN-686 681.

BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA

RESPONDENTS:

1. THE DEPUTY SUPERINTENDENT OF POLICE, PERUMBAVOOR, PIN-683 542.
2. THE SUB INSPECTOR OF POLICE, PERUMBAVOOR, PIN-683 542.
3. MR.JOBY VARGHESE,S/O.VARGHESE,ETTAMALA THAZHETHEKUDI HOUSE,
PERUMANI, VENGOLA P.O., PERUMBAVOOR PIN-683 554.
4. A.B.MATHAI,S/O.BEHNAN,ETTAMALA THAZHETHEKUDI HOUSE,
PERUMANI, VENGOLA P.O., PERUMBAVOOR PIN-683 554.
5. A.B.PAULOSE,
S/O.BEHNAN, ETTAMALA THAZHETHEKUDI HOUSE, PERUMANI
VENGOLA P.O., PERUMBAVOOR, PIN-683 554.
6. A.P.MATHAI,S/O.PATHROSE,
ETTAMALA THAZHETHEKUDI HOUSE, PERUMANI, VENGOLA P.O.
PERUMBAVOOR, PIN-683 554.
7. A.V.YAKUB,S/O.VARKEY,
ETTAMALA THAZHETHEKUDI HOUSE, PERUMANI, VENGOLA P.O.
PERUMBAVOOR, PIN-683 554.
8. SHIBU PAUL,S/O.T.M.PAULOSE,
ETTAMALA THAZHETHEKUDI HOUSE, PERUMANI, VENGOLA P.O.
PERUMBAVOOR, PIN-683 554.

R3 -R 8 BY ADV. SRI.JOY THATTIL ITTOOP
R3 -R 8 BY ADV. SRI.A.G.ADITYA SHENOY
R3 -R 8 BY ADV. SRI.K.M.BIJU
BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 8487 of 2015 (I)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1:TRUE COPY OF QUARRYING LEASE DATED 17.03.2010.

EXT.P2:TRUE COPY OF LICENSE ISSUED BY DEPUTY CHIEF CONTROLLER OF EXPLOSIVES, ERNAKULAM.

EXT.P3:TRUE COPY OF LICENSE FORM L.E.-1 OF EXPLOSIVES RULES 2008 DATED 16-03-2011 ISSUED BY THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES.

EXT.P4:TRUE COPY OF SHOT FIRER'S CERTIFICATE DATED 14-03-11.

EXT.P5:TRUE COPY OF CONSENT TO OPERATE THE QUARRY DATED 04-12-2012 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD.

EXT.P6:TRUE COPY OF D & O LICENSE ISSUED FROM THE MAZHUVANNOORR GRAMA PANCHAYAT DATED 16-05-2014.

EXT.P6(a): TRUE COPY OF ENGLISH TRANSLATION OF EXHIBIT P6.

EXT.P7:TRUE COPY OF D & O LICENSE ISSUED FROM THE VENGOLA GRAMA PANCHAYAT DATED 24-04-2014.

EXT.P7(A): TRUE COPY OF ENGLISH TRANSLATION OF EXHIBIT P7.

EXT.P8:TRUE COPY OF COVERING LETTER DATED 06-04-2013 ISSUED BY THE DEPARTMENT OF ENVIRONMENT & CLIMATE CHANGE ALONG WITH ENVIRONMENTAL CLEARANCE CERTIFICATE DATED 15-03-2013 ISSUED BY THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY, KERALA.

EXT.P9:TRUE COPY OF PROCEEDINGS DATED 31-03-2014 OF DIRECTORATE OF MINING AND GEOLOGY.

EXT.P10: TRUE COPY OF CERTIFICATE OF REGISTRATION DATED 12/04/2010.

EXT.P11: TRUE COPY OF ROUGH SKETCH SHOWING THE LIFE OF THE PROPERTY COVERED UNDER EXHIBIT.P1.

EXT.P12: TRUE COPY OF JUDGMENT IN W.P.C.NO.14408/2014 OF THIS HON'BLE COURT.

EXT.P13: TRUE COPY OF ORDER DATED 28/01/2015 ISSUED BY THE GEOLOGIST.

EXT.P14: TRUE COPY OF REPRESENTATION DATED 11/03/2014 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P15: TRUE COPY OF COMPLAINT FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT ON 14/03/2015.

EXT.P15(a): TRUE COPY OF ENGLISH TRANSLATION OF EXHIBIT P15.

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EXT.P16: TRUE COPY OF RECEIPT ISSUED BY THE 2ND RESPONDENT.

EXT.P17: TRUE COPY OF RENEWED LICENCE ISSUED BY THE MAZHUVANNUR GRAMA PANCHAYAT TO THE PETITIONER TO CONDUCT THE QUARRY FOR THE PERIOD 2015-16 DATED 07/04/2015.

EXT.P18: TRUE COPPY OF RENEWED LICENSE ISSUED BY THE MAZHUVANNUR GRAMA PANCHAYAT TO THE PETITIONER TO CONDUCT THE CRUSHER UNIT FOR THE PERIOD 2015-16 DATED 07/04/2015.

EXT.P19: TRUE COPY OF RENEWED LICENSE ISSUED BY VENGOLA GRAMA PANCHAYAT TO THE PETITION TO CONDUCT THE QUARRY AND VALID UP TO 31/03/2016 ON 21/04/2015.

RESPONDENT(S) ' EXHIBITS

NIL

TRUE COPY

PA TO JUDGE

**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

W.P.C.No.8487 of 2015

Dated this the 26th day of June 2015

J U D G M E N T

Shaffique, J

Petitioner has approached this Court seeking police protection in the matter relating to functioning of the quarry and crusher unit. It is submitted that petitioner is having all the necessary licences and permits for the conduct of the quarry and crusher unit. Obstruction is being created by respondents 3 to 8 and their men. Though the petitioner had submitted complaint to the police seeking necessary protection to prevent the obstructive attitude of private respondents, no action has been taken by the police and therefore the petitioner has approached this Court.

2. Counter affidavit has been filed by respondents 4 to 8 inter alia stating that the petitioner's licence has expired. That apart, it is submitted that the quarry and

mining operation are causing pollution in the area. It is also submitted that the authorities are not taking any action in the matter of pollution. However, they submitted that they have not physically obstructed the petitioner in any manner.

3. Reply affidavit has been filed by the petitioner producing licence which has been renewed by the local authorities. It is stated by the learned counsel that all necessary licenses and permits as required under law are available to the petitioner.

4. Heard learned Government Pleader as well. He submits that if any untoward incident happens, police shall look into the matter and do the needful.

5. Having regard to the aforesaid factual situation, it is pertinent to note that if the private respondents have a case that the quarry and crushing unit is causing any pollution to the nearby locality, it is for them to take necessary measures before the competent authorities or before the Court, to prevent any such pollution. They cannot

take law into their own hands and obstruct the functioning of the unit. Under such circumstances, we are of the view that the writ petition can be disposed of as follows:

If there is any obstruction from the private respondents or their men in the matter relating to functioning of the unit by the petitioner, 2nd respondent, on the complaint of the petitioner, shall take appropriate measures to ensure that no law and order situation arises and no obstruction is being created to the functioning of the unit.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

