

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9447 of 2015 (E)

PETITIONER(S) :

**AYISHA, AGED 30 YEARS,
D/O.SAIDU MUHAMMED, KOCHUVEETIL(AMALIPPURATH),
INCHOOR P.O, VARAPETTY VILLAGE, KOTHAMANGALAM TALUK,
ERNAKULAM DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
ERNAKULAM DISTRICT- 682 030.**
- 2. THE DIRECTOR,
MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM, THIRUVANANTHAPURAM- 695 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.**
- 4. THE REVENUE DIVISIONAL OFFICER,
(R.D.O) MUVATTUPUZHA, ERNAKULAM- 682 101.**
- 5. THE VILLAGE OFFICER,
VARAPETTY VILLAGE, ERNAKULAM DISTRICT- 682 101.**

BY SR.GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 9447 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE ORDER ISSUED BY THE FIRST RESPONDENT
DATED 16.01.2015.**

**EXHIBIT P2: TRUE COPY OF THE RECEIPT DATED 15.01.2015 TOWARDS
THE RECEIPT OF ROYALTY.**

**EXHIBIT P3: TRUE COPY OF THE NOTICE DATED 27.02.215 ISSUED BY
THE FIRST RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.9447 of 2015

Dated this the 25th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"1. Issue a writ of certiorari or other appropriate, writ direction or order by calling for the records leading to the issuance of Exhibit P3 notice issued by the first respondent and set aside the same as illegal.

2. Direct the first respondent to conduct a site inspection in connection with the subject matter and to take out the actual measurement of earth removed by the petitioner and stored in the premises.

3. Direct the first respondent to issue sufficient O(A) forms for transporting the earth removed by the petitioner and stored in the premises within a reasonable time which this Honourable Court may deem fit and proper in the interest of justice and circumstances of the case."

2. The learned counsel for the petitioner submits that the course and proceedings pursued by the first respondent vide Ext.P3, fixing the liability to an extent of Rs.3,40,000/- (Rupees Three lakhs forty thousand only) upon the petitioner is absolutely without any rhyme or reason and in fact without granting any opportunity of hearing to the petitioner.

3. Heard the learned Government Pleader as well.

4. Going by the contents of proceedings, this Court finds that before fixation of liability, quantifying the same, an opportunity of hearing has to be given to the petitioner. Accordingly, the petitioner is set at liberty to file statement of objections, if any, in response to Ext.P3, which shall be done within 'two weeks', upon which the same shall be considered and appropriate orders shall be passed by the first respondent, after conducting a field inspection and measurement with notice to the petitioner. The proceedings as above shall be finalised at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment. The liability of the petitioner to satisfy the amount will be subject to the orders to be passed by the first respondent as aforesaid.

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

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

sp