

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 9880 of 2015 (H)

PETITIONER :

**VIVISH THOMAS, AGED 43 YEARS,
VETTOOR HOUSE, MUTTAMBALAM P.O., KOTTAYAM.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
INDUSTRIES (A) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE DIRECTOR
DIRECTORATE OF MINING AND GEOLOGY
PATTOM PALACE P.O., KESAVADASAPURAM,
THIRUVANANTHAPURAM-695004.**
- 3. SENIOR GEOLOGIST
MINING & GEOLOGY DISTRICT OFFICE, KOTTAYAM.**

R1 TO R3 BY GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: COPY OF NOTIFICATION IN SRO NO.38/2008 PUBLISHED BY THE GOVT. OF KERALA DATED 10.1.2008.

EXHIBIT P2: COPY OF AFFIDAVIT EXECUTED BY THE PETITIONER DATED 29.3.2014.

EXHIBIT P3: COPY OF COVERING LETTER FROM THE 2ND RESPONDENT DATED 31.3.2014.

EXHIBIT P3(A): COPY OF FORM S ISSUED BY THE 2ND RESPONDENT DATED 31.3.2014.

EXHIBIT P4: COPY OF CHALLAN ISSUED BY THE 3RD RESPONDENT DATED 24.3.2015.

EXHIBIT P5: COPY OF NOTIFICATION IN SOR NO.18/2015 PUBLISHED BY GOVERNMENT OF KERALA DATED 9.1.2015.

EXHIBIT P6: COPY OF APPLICATION FILED BY THE PETITIONER DATED 18.3.2015.

EXHIBIT P7: COPY OF THE OBJECTION FILED BEFORE THE 3RD RESPONDENT DATED 24.3.2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 9880 of 2015

Dated this the 27th day of March, 2015

J U D G M E N T

The petitioner is mainly aggrieved of the enhancement of the 'consolidated royalty' from 5.01.2015 by virtue of the amendment of the KMMC Rules, 2015 brought into force as per Ext.P5 (G.O.(P) No.1/2015/IB). The 'consolidated royalty' has been enhanced in the case of the petitioner to an unconscionable extent. The petitioner has been served with Ext.P4 notice dated 24.03.2015 to satisfy the amount of ₹3,00,000/-, which made the petitioner to approach this Court by filing this writ petition. It is also stated that the petitioner has already filed Ext.P7 statement of objections in response to Ext.P4, which however is still to be acted upon.

2. Heard the learned Government Pleader as well.

3. During the course of hearing, the learned counsel for the petitioner submits that, Ext.P5 amendment does not have any retrospective effect and the same will come into effect only after the date of notification and as such, the liability of the petitioner can only be from 5.1.2015 to 31.3.2015.

4. After hearing both the sides, the writ petition is disposed of directing the 3rd respondent/Senior Geologist to consider Ext.P7 objection in response to Ext.P4 and pass appropriate orders after affording an opportunity of hearing to the petitioner at the earliest, at any rate, within 'six weeks' from the date of receipt of a copy of this judgment. Coercive proceedings, if any shall be kept in abeyance till such time, subject to satisfaction of Rs.75,000/- (1/4th of the amount payable as per the amendment), to be effected within 'ten days' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the 3rd respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.