

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 9973 of 2015 (V)

PETITIONER(S) :

1. SAJI THOMAS
S/O.THOMAS, AGED 44 YEARS
KUNNATHU HOUSE, MANKOMBU KARA
MOONNILAVU VILLAGE, MECHAL P.O., MEENACHIL TALUK
KOTTAYAM DISTRICT.
2. BIJUMON P.D.,
PARAMTHOTTU HOUSE,
MANKOMBU KARA, MOONNILAVU VILLAGE
MECHAL P.O., MEENACHIL TALUK, KOTTAYAM DISTRICT.
3. RAJI MATHEW,
S/O.MATHEW, AGED 37 YEARS
MUTHUKATTU HOUSE, MANKOMBU KARA
MOONNILAVU VILLAGE, MECHAL P.O., MEENACHIL TALUK
KOTTAYAM DISTRICT.
4. BIJOMON P.C.,
S/O.CHACKO, AGED 26 YEARS
PUTHETTU HOUSE, MANKOMBU KARA
MOONNILAVU VILLAGE, MECHAL P.O., MEENACHIL TALUK
KOTTAYAM DISTRICT.

BY ADV. SRI.P.C.HARIDAS

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 901.
2. DISTRICT COLLECTOR
KOTTAYAM-686 001.
3. DIRECTOR OF MINING AND GEOLOGY
THIRUVANANTHAPURAM-695 901 .
4. GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY,
DISTRICT OFFICE, KOTTAYAM-686 001.

5. ENVIRONMENTAL ENGINEER
KERALA STATE POLLUTION CONTROL BOARD,
KOTTAYAM – 686 001.
6. DIRECTOR
MINES SAFETY AUTHORITY, BANGALORE- 560 029.
7. MOONNILAVU GRAMA PANCHAYAT
MOONNILAVU P.O., KOTTAYAM DISTRICT
REPRESENTED BY ITS SECRETARY-686 586.
8. P.V. GRANITES
MOONNILAVU P.O., KOTTAYAM DISTRICT
REPRESENTED BY ITS MANAGING PARTNER, SCARIA SCARIA
S/O.SCARIA, AGED 66 YEARS, MANKOMBU KARA
MOONNILAVU P.O. AND VILLAGE, MEENACHIL TALUK
KOTTAYAM DISTRICT-686 586.

R1 TO R4 BY SR. GOVT. PLEADER SRI. JOSEPH GEORGE
R5 BY DV. SRI. M.AJAY, SC
R6 BY ADV. SMT.MAHESWARY G., CGC
R7 BY ADVS. SRI.CYRIAC KURIAN
SRI.K.G.ANIL BABU
R8 BY ADVS. SRI.SHAJI THOMAS
SRI.BINU PAUL
SRI.T.V.VINU
SRI.GEORGE PULIKUTHIYIL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1- TRUE COPIES OF TITLE DEEDS OF THE PETITIONERS.
- EXT. P2- TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 2ND RESPONDENT.
- EXT. P3- TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 4TH RESPONDENT.
- EXT. P4- TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 5TH RESPONDENT.
- EXT. P5- TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 6TH RESPONDENT.
- EXT. P6- TRUE COPY OF THE ORDER DATED 20.09.2012 OF THE 6TH RESPONDENT.
- EXT. P7- TRUE COPY OF THE LETTER OF THE 6TH RESPONDENT.
- EXT. P8- TRUE COPY OF THE CONSENT TO OPERATE THE QUARRY.
- EXT. P9- TRUE COPY OF THE CONSENT TO OPERATE THE CRUSHER.
- EXT. P10- TRUE COPY OF THE GO NO.152/12 ENVIRONMENTAL DEPARTMENT DATED 29.10.2012.
- EXT. P11- TRUE COPY OF THE MINING PERMIT DATED 5.08.2009.
- EXT. P12- TRUE COPY OF THE MINING PERMIT DATED 28.09.2011.
- EXT. P13- TRUE COPY OF THE MINING PERMIT DATED 25.03.2013.
- EXT. P14- TRUE COPY OF THE LETTER DATED 02.02.2015 OF THE 4TH RESPONDENT.
- EXT. P15- TRUE COPY OF THE ORDER DATED 29.08.2013 IN O.A.171/2013 OF THE GREEN TRIBUNAL.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 9973 of 2015

Dated this the 10th day of April, 2015

JUDGMENT

The petitioners have approached this Court with the following prayers:

i. To declare that the 8th respondent is not entitled for renewal or grant of permit for mining from his property comprised in Sy.Nos.24/1, 2, 3 and 24 of Moonnilavu Village, since he had been granted with permit for the land for a period exceeding 3 years and the same is situated in Danger Zone.

ii. To declare that the provisos to Rule 12 of the Kerala Minor Mineral Concession Rules 2015 are arbitrary and unreasonable and hence null and void and unconstitutional.

iii. To issue a writ of mandamus or any other appropriate writ order or direction to the

a. 4th respondent restraining him from proceeding with issuing/renewing mining permit to the 8th respondent in his property comprised in Sy.Nos.24/1, 2, 3 and 24 of Moonnilavu village, since the 8th respondent has already obtained permit for the land for a period exceeding 3 years and without complying with the provisions of the Mines Act, Kerala Minor Mineral Concession Rules 2015, notifications issued there under and the directions of the Honourable Supreme Court of India, this Honourable

Court and the Green Tribunal.

b. To direct the 2nd respondent to see that no mining operations are carried out by the 8th respondent in violation of the Mines Act, Kerala Minor Mineral Concession Rules 2015, notifications issued there under and the directions of the Honourable Supreme Court of India, this Honourable Court and the Green Tribunal.

c. Respondents 5, 6 and 7 from either issuing/renewing the license or consent to the 8th respondent to operate the quarry in his property in Sy.No.24/1, 2, 3 and 24 of Moonnilavu village, without considering the objections of the petitioners.

iv. To issue a writ of mandamus or any other appropriate writ order or direction to

a. The 2nd respondent to consider and dispose of Ext.P2

b. The 4th respondent to consider and dispose of Ext.P3

c. The 5th respondent to consider and dispose of Ext.P4.

d. The 6th respondent to consider and dispose of Ext.P5

within a time limit prescribed by this Honourable court.

v. To issue a writ of mandamus or any other appropriate writ order or direction to respondents 2 to 6 not to issue mining permit, consent to operate etc. to the 8th respondent, before considering Exts.P2 to P5 representations submitted by the petitioner.

vi. To grant such other reliefs, which this Hon'ble

Court deem just and proper in the facts and circumstances of the case, including the cost of the petitioners.

2. Heard the learned counsel for the petitioners, the learned Government Pleader and the learned Counsel for the party respondent.

3. With regard to the insinuation levelled against the 8th respondent, the learned counsel appearing for the said respondent submits that the said respondent is not conducting any quarrying operation in contravention of the any of the provisions of law and that the application for renewal is pending consideration before the concerned Geologist. Only subject to orders to be obtained in this regard, shall the said respondent conduct further operation, submits the learned counsel.

4. The learned counsel for the petitioners submits that, there was a continuing quarrying operation for nearly 3 years and by virtue of the statutory requirement, no further operation shall be continued in view of KMMC Rules, 2015

5. This Court finds that the matter requires to be considered by the Geologist while considering the application for

renewal. In the said circumstance, there will be a direction to the concerned Geologist to consider application stated as preferred by the 8th respondent for renewal of the permit after affording an opportunity of hearing to the petitioners, also in the light of the the KMMC Rules, 2015 and the decision rendered by the Division Bench of this Court in **All Kerala River Protection Council v. State of Kerala** (2015 (2) KLT 78).

The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps. The writ petition is disposed of.

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