

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 10050 of 2015 (E)

PETITIONER :

**M/S.EVER ONE PROPERTIES INDIA PVT. LTD.,
PAREEKKANNI P.O., KOTHAMANGALAM, ERNAKULAM,
REPRESENTED BY ITS MANAGING DIRECTOR,
K.M.ABDUL RASHEED.**

**BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)**

RESPONDENTS :

- 1. STATE OF KERALA, REPRESENTED BY THE PERINCIPAL
SECRTRY, INDUSTRIES (A) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN -695001.**
- 2. THE DIRECTOR OF MINING AND GEOLOGY,
GOVERNMENT OF KERALA, KESAVADASAPURAM,
PATTOM P.O., THIRUVANANTHAPURAM - 695001.**
- 3. THE GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY,
DISTRICT OFFICE, CIVIL STATION, ERNAKULAM,
KAKKANAD, KOCHI - 682030**

R1 & R2 BY GOVERNMENT PLEADER SRI.K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF PROCEEDINGS DT 4/4/2014 OF THE R2 GRANTING REGISTRATION.**
- P2: COPY OF FORM 'S' REGISTRATION OF THE UNIT AS A METAL CRUSHER UNIT.**
- P3: COPY OF GOVERNMENT ORDER DT 5/1/2015 REVISING THE ROYALTY RATE.**
- P4: COPY OF NOTICE DT 21/2/2015 ISSUED BY THE R3.**
- P5: COPY OF OBJECTION SUBMITTED BY THE PETITIONER BEFORE THE R3
AGAINST EXT P4 DT 23/3/2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.10050 of 2015

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Dated this the 30th day of March, 2015

JUDGMENT

The petitioner is mainly aggrieved of the enhancement of the 'consolidated royalty' prior to 09.01.2015 by virtue of the amendment of the KMMC Rules, 2015 brought into force as per Ext.P3 (G.O.(P) NO.1/2015/ID). 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 21.2.2015 to satisfy the amount of ₹12,00,000/-, which made the petitioner to approach this Court by filing this writ petition. It is also stated that the petitioner has already filed Ext.P5 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.P3 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 from 09.01.2015 and onwards which according to the

petitioner is only to the tune of ₹3 lakhs.

4. After hearing both the sides, the writ petition is disposed of directing the 3rd respondent to consider Ext.P5 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 ₹3 lakhs (1/4th of the amount payable as per the amendment) plus 25% of the enhanced royalty in respect of 2015-2016, to be effected within 'ten days' from the date of receipt of a copy of this judgment. Subject to this, the application for renewal of registration for the year 2015-2016 shall be considered and finalised by the concerned respondent.

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

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