

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No.18185 of 2009 (P)

PETITIONERS:

1. JINS, AGED 35 YEARS, S/O. ABRAHAM,
CHERAMPERIL HOUSE, NETTITHOZHUKARA,
ANAKKARA VILLAGE, IDUKKI DISTRICT.
2. THOMAS ABRAHAM, S/O. ABRAHAM,
CHERAMPERIL HOUSE, NETTITHOZHUKARA,
ANAKKARA VILLAGE – IDUKKI DISTRICT.
3. SAJAN, S/O.PAUL, CHENNATTUKUNNEL HOUSE,
NETTITHOZHUKARA, ANAKKARA VILLAGE–IDUKKI DISTRICT.
4. JOHN, S/O. ABRAHAM, MUNDANCHIRA HOUSE,
NETTITHOZHUKARA, ANAKKARA VILLAGE – IDUKKI DISTRICT.

BY ADV. SRI.A.C.DEVASIA

RESPONDENTS :

1. THE DIRECTOR OF MINING & GEOLOGY,
DIRECTORATE OF MINING & GEOLOGY,
THIRUVANANTHAPURAM : 695014.
2. THE GEOLOGIST, DISTRICT OFFICE OF THE
DEPARTMENT OF MINING & GEOLOGY,
PYNAVU – KUYILUMALA – COLLECTORATE –IDUKKI.
3. THE DISTRICT COLLECTOR,
COLLECTORATE IDUKKI – PYNAVU–KUYILUMALA – IDUKKI.
4. THE REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE,
DEVIKULAM–IDUKKI DISTRICT.
5. THE VILLAGE OFFICER,
ANAKKARA VILLAGE, IDUKKI.
6. JOHNY,
S/O.PAPACHY,
PUTHUPARAMBIL HOUSE,
NETTITHOZHUKARA, ANAKKARA VILLAGE – IDUKKI DISTRICT.

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7. BABYCHAN @ KURIAKOSE,
S/O.MATHEW,
PEDIKAPARAMBIL HOUSE,
NETTITHOZHU KARA,
ANAKKARA VILLAGE – IDUKKI DISTRICT.

BY SR. GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :-

- EXT.P1 : COPY OF THE DEED NO.1966/91 DTD.30.8.1991
OF SRO, KATTAPPANA.
- EXT.P2 : COPY OF THE TAX RECEIPT DTD.19.6.2009.
- EXT.P3 : COPY OF THE TITLE DEED NO.1773/2003
DTD.17.6.2003.
- EXT.P4 : COPY OF THE DEED NO.5/1997 OF SRO
KATTAPPANA DTD.1.1.1997.
- EXT.P5 : COPY OF THE REPRESENTATION DTD.20.5.2009
AND THE POSTAL RECEIPT SUBMITTED BY THE
PETITIONER BEFORE RESPONDENTS 1 TO 3.

RESPONDENTS' EXHIBITS:-

- EXT.R1(a) : COPY OF THE NOTICE DTD.17.8.09 ISSUED BY THE
2ND RESPONDENT.
- EXT.R1(b) : COPY OF THE PROCEEDINGS OF THE 2ND
RESPONDENT DTD.28.8.2009.
- EXT.R1(c) : COPY OF THE LETTER OF THE 2ND RESPONDENT
DTD.16.9.2009.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.18185 of 2009

Dated this the 25th day of June, 2015

JUDGMENT

The petitioners, who are residents in Nettithozhi Kara in Anakkara Village, have filed this Writ Petition seeking a writ of mandamus commanding respondents 1 to 5 to issue necessary orders to stop the illegal sand mining of respondents 6 and 7 and for other consequential reliefs.

2. On 25.8.2009, the learned Government Pleader on instructions submitted that the 3rd respondent had taken note of the complaint filed by the petitioners and has directed the subordinate officials to stop the illegal sand mining at the earliest. After recording the aforesaid submission made by the learned Government Pleader, the case was posted to 15.9.2009.

3. On 17.9.2009, this Court passed an interim order restraining respondents 6 and 7 from carrying on quarrying or mining activities in their respective lands and the 3rd respondent was directed to instruct the Sub Collector, Devikulam to ensure that this order is implemented. The aforesaid order passed by this Court

dated 17.9.2009 is extracted hereunder:-

"Heard Sri.A.C.Devasia, the learned counsel appearing for the petitioners and Sri.M.A.Asif, the learned Government Pleader appearing for the official respondents. Though the party respondents have been served, they have not chosen to enter appearance till date.

2. The petitioners are agriculturists residing in Anakkara Village in Idukki District. This writ petition is filed aggrieved by the illegal mining of sand by respondents 6 and 7 in their lands. When this writ petition came up for hearing on 25.8.2009, the learned Government Pleader submitted that the District Collector has taken note of the complaint filed by the petitioners and directed his subordinate officials to stop the illegal mining of sand at the earliest. This Court, thereupon directed the respondents to file a statement affirming the said fact. Accordingly, the third respondent has filed an affidavit dated 14.9.2009 wherein it is stated that after site inspection, the Sub Collector, Devikulam has on 20.8.2009 issued 17 stop memos to various individuals including respondents 6 and 7 to stop the mining activities in their lands.

3. The learned counsel for the petitioners submits that even after the Sub Collector issued the stop memos, respondents 6 and 7 are carrying on mining operations in their lands. Respondents 6 and

7 have not so far entered appearance or established that they possess valid permits issued by the Geologist to conduct quarrying operations in their lands.

4. In such circumstances, I restrain respondents 6 and 7 from carrying on quarrying or mining activities in their respective lands. The District Collector, Idukki shall instruct the Sub Collector, Devikulam to ensure that this order is implemented."

4. A counter affidavit has been filed on behalf of the first respondent in which it has been stated that the second respondent made a detailed site inspection, which revealed that respondents 6 and 7 were removing ordinary sand from their properties which are adjacent to the petitioner's property. Consequently Ext.R1(a) notice was issued to respondents 6 and 7 seeking their explanation and directing them to appear before the second respondent on or before 26.8.2009. But respondents 6 and 7 failed to appear. The further actions taken by the second respondent in this regard has also been stated in detail in the counter affidavit filed by the first respondent.

5. From the counter affidavit filed by the first respondent it is evident that the second respondent has already taken necessary

steps to prevent respondents 6 and 7 from engaging illegal mining of sand.

In such circumstances, in view of order dated 17.9.2009 passed by this Court in this Writ Petition, no further orders are necessary and this Writ Petition is disposed of in terms of the aforesaid order dated 17.9.2009 making the said order absolute.

ANIL K.NARENDHAN, JUDGE

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