

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).No. 15628 of 2015 (C)

PETITIONER :

GIGI. ETTEYRA, AGED 48 YEARS,
W/O.ETTEYRA, VALIKODATHU THAKKOLKKARAN,
ASHTAMICHIRA P.O., CHALAKKUDI, THRISSUR,
PIN -680 731.

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT(S):

1. THE DISTRICT COLLECTOR,
CIVIL STATION, THRISSUR-680 001.
2. THE SENIOR GEOLOGIST,
DISTRICT HEAD QUARTERS OF MINING & GEOLOGY,
MINI CIVIL STATION, CHEMBUKKAVU, THRISSUR,
PIN-680 020.
3. THE TAHASILDAR,
TALUK OFFICE, MUKUNDAPURAM,
THRISSUR, PIN-680 001.
4. THE VILLAGE OFFICER,
VADAKKUMBAGAM VILLAGE OFFICE, VADAKKUMBAGAM,
THRISSUR-680 026.
5. DIRECTOR,
DEPARTMENT OF ENVIRONMENT & CLIMATE, PALLIMUKKU,
PETTAH, THIRUVANANTHAPURAM-695 024.

BY GOVERNMENT PLEADER SRI.S.JAMAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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WP(C).No. 15628 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: TRUE COPY OF THE DOCUMENT NO.3516/86 OF THE SUB REGISTRAR OFFICE, MALA, THRISSUR DISTRICT.
- EXHIBIT-P2: TRUE COPY OF THE ENVIRONMENTAL CLEARANCE NO.31/2014 DATED 31.10.2014 ISSUED BY THE 5TH RESPONDENT.
- EXHIBIT-P3: TRUE COPY OF THE ORDER NO.B11-75126/14 DATED 23.12.2014 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT-P4: PHOTO COPY OF THE CHALAN RECEIPT DATED 08.01.2015 ISSUED FROM SUB TREASURY, THRISSUR.
- EXHIBIT-P5: TRUE COPY OF THE NOTICE DATED 16.02.2015 ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT.
- EXHIBIT-P6: TRUE COPY OF THE COMMUNICATION DATED 07.03.2015 ISSUED BY THE SECRETARY, MALA GRAMA PANCHAYAT.
- EXHIBIT-P7: TRUE COPY OF THE REPORT OF THE 4TH RESPONDENT DATED 04/02/2014 ALONG WITH SKETCH AND MAHASAR.
- EXHIBIT-P8: PHOTOGRAPHS OF THE PETITIONER'S PROPERTY.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J.

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W.P.(C) No.15628 of 2015 - C

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Dated this the 6th day of August, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P5 notice, which obviously was issued on the basis of a news paper report. The petitioner contends that the petitioner's property was at different levels and that long back there was removal of ordinary earth from the above land. To evidence that; the petitioner also produced Ext.P6 certificate of the Panchayat that in the year 1997-98, there was about 2120M³ ordinary earth removed from the petitioner's property for the construction of a road. As the land now exists, the petitioner submits that there are sand pillars existing on the land, which is dangerous since, the same may at any time collapse leading to land slides. It is only to remove such earth, from the surface of the land that the petitioner made an application before the State Environmental Impact Assessment Authority(SEIAA).

2. Environmental clearance certificate was granted as

per Ext.P2 dated 31.10.2014. The petitioner also obtained a NOC from the District Collector dated 23.12.2014 as per Ext.P3. The petitioner for the purpose of a permit to quarry, had also approached the 2nd respondent, which application is pending before the 2nd respondent when Ext.P5 notice was issued.

3. The notice at Ext.P5 shows that an inspection of the property revealed that about 10000M³ of ordinary earth was removed from the property. It is to be noticed that the petitioner has a contention that the said earth was removed long back and the petitioner had moved the above applications before the SEIAA, the District Collector and the Senior Geologist only to remove the sand pillars standing in the property of the petitioner. To substantiate the removal of atleast a portion of the ordinary earth, the petitioner has also produced Ext.P6, which as pointed out by the learned Government Pleader refers only to removal of 2120M³ of ordinary earth. Ext.P5 is also seen to have

found the excavation to be made beneath the ground level, which is interdicted even by Ext.P2.

4. In such circumstance as of now, no certiorari will issue against Ext.P5 since it is only a notice. The petitioner would be entitled to file her objections before the Geologist, the 2nd respondent and also produce material to substantiate her contentions. The proceedings would be finalised by the 2nd respondent after affording an opportunity of hearing to the petitioner expeditiously within a period of three months from the date of receipt of the certified copy of this judgment. The petitioner also relies on the report of the Village Officer and to ascertain the true facts the Geologist may call for a report from the Village Officer also.

The writ petition is disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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// true copy //

P.A to Judge.