

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 18425 of 2015 (C)

PETITIONER(S):

ATHANI BRICKS AND METALS (PVT) LTD.,
NARIPPARA P.O., PADINJARETHARA, KALPETTA,
WAYANAD DISTRICT, REPRESENTED BY ITS
MANAGING DIRECTOR MATHEW JOSEPH.

BY ADV. SRI.GEORGE POONTHOTTAM.

RESPONDENT(S):

1. THE DISTRICT COLLECTOR,
WAYANAD, PIN: 673 121.
2. THE SUB COLLECTOR,
WAYANAD DISTRICT, PIN: 673 121.
3. SRI.SEERAM SAMBASIVA RAO,
SUB COLLECTOR, WAYANAD DISTRICT, PIN: 673 121.

* ADDL. R4 IMPEADED

4. E.K. RADHAKRISHNAN, KARAKKATTUKUNNU,
VELLAMUNDA, WAYANAD, JOINT CONVENER OF
VALARAMKUNNU KOITTUPARAKUNNU
QUARRY ACTION COMMITTEE.

* ADDL. R4 IS IMPEADED AS PER ORDER DATED 14/07/2015
IN I.A. NO.9019/2015.

** ADDL. R5 IMPEADED

5. THE TAHSILDAR,
MANANTHAVADI.

** ADDL. R5 IS SUO MOTU IMPEADED AS PER ORDER DATED 14/07/2015.

R1, R2 & ADDL. R5 BY GOVT. PLEADER SRI.MANOJ P.KUNJACHAN.
R4 BY ADV. SRI.R.KRISHNA RAJ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:-

- P1: TRUE COPY OF THE LEASE DATED 12/05/2010.**
- P2: TRUE COPY OF LICENCE ISSUED IN FORM LE-3 OF THE EXPLOSIVES RULES DATED 24/03/2015.**
- P3: TRUE COPIES OF THE SCHEDULE OF LANDS ACCOMPANYING THE ASSIGNMENT (PATTAYAM) AS WELL AS THE SKETCH THEREOF.**
- P4: TRUE COPY OF SKETCH OF LAND ASSIGNED IN FAVOUR OF ONE SHRI K.P.KRISHNAN WHICH IS NOW IN THE POSSESSION OF ONE SMT.PUTHUR AMINA.**
- P5: TRUE COPY OF TH STATEMENT.**
- P6; TRUE COPY OF THE STOP MEMO DATED 16/12/2013.**
- P7: TRUE COPY OF THE REPORT DATED 24/12/2013 SUBMITTED THE TAHSILDAR TO THE DISTRICT COLLECTOR.**
- P8: TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR, WAYANAD DATED 15/02/2014.**
- P9: TRUE COPY OF THE STOP MEMO DATED 01/04/2014.**
- P10: TRUE COPY OF THE PROCEEDINGS DATED 22/08/2014 OF THE DISTRICT COLLECTOR.**
- P11: TRUE COPY OF THE STOP MEMO ISSUED DATED 10/12/2014.**
- P12: TRUE COPY OF THE REPORT DATED 11/12/2014.**
- P13: TRUE COPY OF THE PRELIMINARY ORDER DATED 18/02/2015.**
- P14: TRUE COPY OF THE JUDGMENT DATED 27/03/2015 IN WP(C).NO.33819/2014.**
- P15: TRUE COPY OF THE REPLY DATED 01/05/2015 SUBMITTED TO THE SUB COLLECTOR ON 02/05/2015.**
- P16: TRUE COPY OF THE REPORT DATED 16/12/2014 SUBMITTED BY THE TAHSILDAR AND OBTAINED UNDER THE PROVISIONS OF THE RIGHT TO INFORMATION ACT.**
- P17: TRUE COPY OF THE REPORT DATED 13/01/2015.**
- P18: TRUE COPY OF THE ORDER DATED 02/06/2015.**

RESPONDENT'S EXHIBITS:-

- EXT.R2A COPY OF THE ENTIRE TEXT OF EXT.P17 REPORT
DATED 13/01/2015 ISSUED BY THE TAHSILDAR, MANANTHAVADI.
- EXT.R2B COPY OF THE SKETCH APPENDED TO PATTAYAM NO.LA-9/69
ISSUED IN FAVOUR OF K.P. KRISHNAN.
- EXT.R2C COPY OF THE SKETCH.
- EXT.R2D COPY OF THE PHOTOGRAPH WHICH WOULD SHOW THE
PROXIMITY OF THE PATHWAY TO THE QUARRYING SITE.
- EXT.R4A COPY OF THE FILED REGISTER DATED NIL.
- EXT.R4B COPY OF THE LOCATION SKETCH OF THE PETITIONER
DATED NIL.
- EXT.R4C COPY OF THE SKETCH OF THE VILLAGE OFFICER DATED NIL.
- EXT.R4D COPY OF THE L.A.12/69 DATED 20/09/1969.
- EXT.R4E COPY OF THE L.A.27/86 DATED 15/02/1990.
- EXT.R4F COPY OF THE L.A.21/84 DATED 20/11/1988.
- EXT.R4G COPY OF THE REPORT AND SKETCH OF TAHSILDAR
DATED 18/05/2015.
- EXT.R4H COPY OF THE ORDER OF THE GEOLOGIST DATED 23/07/2014.
- EXT.R4I COPY OF THE PETITION FILED BY THE PETITIONER
DATED 02/07/2015.
- EXT.R4J COPY OF THE PETITION FILED BY THE PETITIONER
DATED 02/07/2015.
- EXT.R4K COPY OF THE REPORT OF TRIBUNAL EXTENSION OFFICER
DATED 12/03/2015.
- EXT.R4L COPY OF THE REPORT OF TRIBUNAL DEV. OFFICER
DATED 16/12/2013.
- EXT.R4M COPY OF THE REPORT OF D.F.O. DATED 11/12/2013.
- EXT.R4N COPY OF THE SKETCH OF ROADS DATED NIL.
- EXT.R4O COPY OF THE PHOTOGRAPHS DATED NIL.
- EXT.R4P COPY OF THE PHOTOGRAPHS DATED NIL.
- EXT.R4Q COPY OF THE PHOTOGRAPHS DATED NIL.

//TRUE COPY//

K. VINOD CHANDRAN, J.

W.P.(C) No. 18425 of 2015 (C)

Dated this the 14th day of July, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P18 order.

2. The essential contention raised by the petitioner against Ext.P18 is that when the matter was under consideration of the District Collector, as has been directed in Ext.P14 judgment and that fact having been noticed by the Sub Collector, no orders could have been passed prohibiting the operation of the quarry, especially since the judgment of this Court in Ext.P14 specifically found that there shall be a status quo as on the date of the judgment.

3. Though Ext.P18 is indicated as suo motu proceedings, it is seen in the order itself that there were complaints from the Quarry Action Committee, that the quarry is a threat to the life and property of the tribals residing nearby.

4. The counter affidavit of the official respondent also states in paragraph 3 that the District Collector had, by communication dated 29.1.2015, directed the Sub Collector to take proceedings under Section 133 of the Cr.P.C. to ensure the safe and peaceful life of the people in the area, wherein the petitioner was conducting a quarry. It was after the said communication that Ext.P14 order was issued. The Sub Collector, who had taken proceedings under Section 133 of Cr.P.C., as is evident from Ext.P18 order, was aware of the proceedings pending before the District Collector. Hence, the appropriate procedure would have been to transfer the case to the District Collector itself, especially since this Court had directed consideration by the District Collector.

4. In such circumstance, without expressing any opinion on the merits of the matter, Ext.P18 would stand set aside. The petitioner and the additional respondents impleaded herein shall appear before the Office of the

District Collector on **22.07.2015**, on which date the Office of the District Collector shall intimate a date of hearing, within one or two weeks from the said date. The hearing shall be conducted and all the matters including those considered in Ext.P18 shall be considered in accordance with Ext.P14 judgment of this Court. The order shall be passed at any rate within one month from the date of hearing. Considering the controversy as also the direction for expedient consideration of the issue, this Court is of the opinion that the petitioner shall not conduct the quarry operations till orders are passed.

Writ Petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE