

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 25695 of 2015 (J)

PETITIONER:

JAMES VARGHESE, CHELAPARAMBATH
PUTHENPURAYIL, PALAKKUZHA, MUVATTUPUZHA.

BY ADV. SRI.MATHEW A KUZHALANADAN

RESPONDENTS:

1. SECRETARY, GRAMA PANCHAYATH,
PALAKKUZHA-686 662.
2. GRAMA PANCHAYATH , PALAKKUZHA,
REPRESENTED BY ITS SECRETARY
PALAKKUZHA-686 662.
3. STATE OF KERALA REPRESENTED BY
THE SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

Addl.4. A.K.MOHANAN, S/O.AYYAPPAN,
AMBATTU HOUSE, PALAKUZHA P.O.,
ILLIKUNNU, ERNAKULAM.

ADDL.R4 IS IMPEADED AS PER ORDER DATED 14.09.2015 IN IA 12897/15.

R1&R2 BY ADV. SRI.N.K.KARNIS
ADDL BY ADV. SRI.SHINDO VARGHESE
BY SENIOR GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 : COPY OF THE LICENCE ISSUED BY THE FIRST RESPONDENT PANCHAYATH DTD.18.4.2013.
- EXHIBIT P2 : COPY OF THE RENEWAL APPLICATION DTD.22.6.2015 SUBMITTED TO THE FIRST RESPONDENT BY THE PETITIONER.
- EXHIBIT P3 : COPY OF THE DECISION NO.7 OF THE 2ND RESPONDENT DTD.20.7.2015.
- EXHIBIT P4 : COPY OF THE LETTER DTD.23.7.2015 ISSUED BY THE FIRST RESPONDENT.

RESPONDENT(S)' EXHIBITS :

- EXHIBIT R4(a) : TRUE COPY OF THE PHOTOGRAPH SHOWING THE DEVELOPMENT OF CRACKS ON THE WALL OF MY RESIDENTIAL BUILDING
- EXHIBIT R4(b) : TRUE COPY OF THE JUDGMENT DATED 09.03.2015 IN WP(C) NO. 10858/2012
- EXHIBIT R4(c) : TRUE COPY OF THE INSPECTION REPORT SUBMITTED BY THE ASSITANT ENVIRONMENTAL ENGINEER.
- EXHIBIT R4(d) : TRUE COPY OF THE CIRCULAR DATED 20.07.2011 ISSUED BY THE CHAIRMAN, KERALA STATE POLLUTION CONTROL BOARD.
- EXHIBIT R4(e) : TRUE COPY OF THE JUDGMENT DATED 28.06.2013 BY THIS HONOURABLE COURT IN WP(C) NO. 8786/2013.
- EXHIBIT R4(f) : TRUE COPY OF THE COMMUNICATION DATED 04.10.2013 BY THE GEOLOGIST.
- EXHIBIT R4(g) : TRUE COPY OF THE RESOLUTION PASSED BY THE GRAMA SABHA DATED 04.01.2015.
- EXHIBIT R4h) : TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE SUB INSPECTOR, KOTHATTUKULAM.
- EXHIBIT R4(i) : TRUE COPY OF THE RECEIPT OF THE COMPLAINT DATED 01.03.2015.
- EXHIBIT R4(j) : TRUE COPY OF THE PROHIBITORY ORDER ISSUED BY THE VILLAGE OFFICER, PALAKKUZHA.
- EXHIBIT R4(k) : TRUE COPY OF THE ORDER NO.A-12-3875/12 DATED 09.09.2015 OF THE REVENUE DIVISIONAL OFFICER, MUVATTUPUZHA.
- EXHIBIT R4(l) : TRUE COPY OF THE COMPLAINT AND RECEIPT OF COMPLAINT DATED 25.03.2013 SUBMITTED BEFORE THE PANCHAYAT

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EXHIBIT R4(m)	TRUE COPY OF THE REPORT DATED 09.03.2013 OF SUB INSPECTOR OF POLICE, KOOHATTUKULAM.
EXHIBIT R4(n) :	TRUE COPY OF THE REPORT OF THE REVENUE DIVISIONAL OFFICER, MUVATTUPUZHA DATED 14.09.2012.
EXHIBIT R4(o) :	TRUE COPY OF THE NEWS PAPER REPORT DATED 22.12.2012.
EXHIBIT R4(p) :	TRUE COPY OF THE ORDER OF THE DISTRICT GEOLOGY NO. DOE/15423/E2/14 DATED 25.09.2015.

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 13th day of October, 2015

JUDGMENT

Ext.P1 licence granted to the petitioner to carry on the quarrying operations was valid till 17.05.2013. Ext.P1 licence itself says that it is subject to WP(C) No. 10858/2012 pending on the file of this court. The said writ petition was disposed of by Ext.R4(b) judgment dated 09.03.2015. The judgment reflects the fact that the quarry has not been functioning since 15.09.2012 due to the stop memo issued.

2. Ext.P2 application dated 22.06.2015 for renewal of licence was filed much after. The same is filed almost two years after the expiry of the period of Ext.P1 licence. The same cannot be said to be a renewal of the existing licence therefore. Environmental clearance is mandatory as held in **Najeeb Vs. Shoukath Ali [2015 (3) KLT 396]**.

3. The petitioner has no case that he has obtained an environmental clearance to restart the quarrying operations. The petitioner is free to apply for licence afresh after obtaining

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the environmental clearance. Ext.P3 decision dated 20.07.2015 declining permission need not be interfered therefore. It would suffice if it is clarified that the petitioner can apply afresh for licence after obtaining the environmental clearance.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd