

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C) .No. 29498 of 2012 (J)

PETITIONER(S) :-

SANTHOSH.T.D., AGED 33 YEARS
S/O.DEVASSY KUTTY, THEKKINIYATH HOUSE,
NALUKETTU DESOM, KORATTY KIZHAKKUMURY VILLAGE,
KORATTY P.O., THRISSUR DISTRICT.

BY ADVS.SRI.SHOBY K.FRANCIS
SRI.AGI SHOBY
SMT.M.M.LAIJU NISSA

RESPONDENT(S) :-

1. GEOLOGIST
OFFICE OF THE GEOLOGIST, DEPARTMENT OF MINING AND
GEOLOGY, CHEMBUKKAVU P.O.,
THRISSUR DISTRICT, PIN - 680 021.
2. VILLAGE OFFICER
KORATTY KIZHAKKUMURY VILLAGE,
KORATTY P.O., THRISSUR DISTRICT - 680 308.
3. SUB INSPECTOR OF POLICE
KORATTY POLICE STATION, KORATTY P.O.,
THRISSUR DISTRICT - 680 308.
4. JIMMY PAUL, AGED 45 YEARS
S/O.PAUL, PERPPADAN HOUSE, NALUKETTU P.O.,
THRISSUR DISTRICT, PIN - 680 308.

R4 BY ADV. SRI.K.S.BHARATHAN
R1 TO R3 BY GOVERNMENT PLEADER SRI.REJI JOSEPH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

jvt

WP(C).NO.29498 OF 2012

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY OF THE WRITTEN COMPLAINT SUBMITTED BY THE PETITIONER TO THE RESPONDENTS 1 TO 3 DATED 20.11.2012.

EXT.P2 :- TRUE COPY OF THE WRITTEN COMPLAINT DATE 4-12-12, SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P3 :- TRUE COPY OF THE COMPLAINT DATE 4-12-12 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT POLICE.

EXT.P4 :- TRUE COPY OF THE STOP MEMO DATED 5-12-12 ISSUED BY THE 2ND RESPONDENT TO THE 4TH RESPONDENT.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

A.M.SHAFFIQUE, J

W.P(C). No. 29498 of 2012

Dated this the 13th day of November, 2015

J U D G M E N T

Petitioner has approached this Court seeking for a direction to respondents 1 to 3 to take appropriate action against fourth respondent from extraction, removal and transportation of ordinary earth from the property situated at Koratty, Nalukettu and Kizhakkumury and filling of the said land. The main contention urged by the petitioner is that the 4th respondent, after purchasing land, without obtaining necessary permission started extracting ordinary earth. Though stop memo has been issued by the Village Officer on 5.12.2012, no action has been taken to enforce the same.

2. Counter affidavit has been filed by the second respondent inter alia contending that though stop memo was issued by the Village Officer, the land owner had produced certificate bearing No.B.9153/12 dated 28.11.2012 of the Secretary, Koratty Grama panchayat permitting removal of sand from Sy.No.1107/3. The matter as reported to the Tahsildar, Mukundapuram. It is further stated that subsequent to the petition submitted by the petitioner, site inspection was conducted and it was noticed that no mining sanction was

produced at the time of verification and stop memo was issued under the presumption that the removal of the earth was unauthorised. Later the land owner produced permit for removal of the sand issued by the Secretary of Grama Panchayat.

3. The petitioner submits that the reasons stated in the counter affidavit is absolutely baseless. The Secretary of the Grama Panchayat has no right to grant permission for removal of ordinary earth.

4. Such being the facts, it is for the competent authority to verify whether the fourth respondent is continuing removal of the ordinary earth from the property, without any valid licence or permit from the competent authority.

5. Under such circumstances, there will be a direction to the first respondent to ensure that no ordinary earth is removed by the fourth respondent without obtaining necessary permission from the competent authority. As far as claim of the petitioner is concerned, if he has got a contention regarding nuisance caused by the removal of earth, his remedy is to approach the Civil Court for appropriate reliefs.

With these observations, the writ petition is disposed of.

Sd/-
A.M.SHAFIQUE,
JUDGE

// TRUE COPY //