

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 27718 of 2015 (L)

PETITIONER :

DIPIN K., AGED 35 YEARS
S/O.P.K.CHEKKANI, RESIDING AT KOZHIKKAUMEETHAL HOUSE
MODAKKALUR P.O., KOZHIKODE DISTRICT, PIN 673315.

BY ADVS.SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH

RESPONDENTS :

1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY
DEPARTMENT OF HOME AFFAIRS,
THIRUVANANTHAPURAM-695 001.
2. THE SUPERINTENDENT OF POLICE
KOZHIKODE 673 001.
3. THE CIRCLE INSPECTOR OF POLICE
ATHOLI, KOZHIKODE.
4. THE STATION HOUSE OFFICER
ATHOLI POLICE STATION, KOZHIKODE.
5. GEOLOGIST
OFFICE OF THE DEPARTMENT OF MINING AND GEOLOGY
DISTRICT OFFICE, KOZHIKODE-673 001.
6. MR.SURESH, AGED 41 YEARS
KUNJUNNI ADIYODI, RESIDING AT KAKKATTU HOUSE
KUNNATHARA POST, PUTHENCHERY, KOILANDI (VIA) KOZHIKODE
PIN 673 620.
7. MR.RAVI, AGED 52 YEARS
S/O.KANARAN NAIR, KAVUNGAL MEETHAL HOUSE
RESIDING AT KAVUNGAL MEETHAL HOUSE, KUNNATHARA POST
PUTHENCHERY, KOILANDI (VIA), KOZHIKODE
PIN 673620.

8. MR.TADU, AGED 33 YEARS
S/O.RAMAKRISHNAN, RESIDING AT KAKKATTUMEETHAL HOUSE
KUNNATHARA POST, PUTHENCHERY, KOILANDI (VIA) KOZHIKODE
PIN 673 620.
9. MR.BALAKRISHNAN, AGED 50 YEARS
S/O.RAGHAVAN NAMBIAR, RESIDING AT ALAKRISHNAN
KADAMBATH MEETHAL HOUSE, KUNNATHARA POST, PUTHENCHERY
KOILANDI (VIA), KOZHIKODE, PIN 673 620.

R1 TO R5 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR
R6 TO R9 BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 27718 of 2015 (L)

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE LICENSE NO.24/2015-16/LTS/CRPS/DOZ/
M.1609/15 ISSUED DATED 26/08/2015.

EXHIBIT-P2: TRUE COPY OF THE COMPLAINT FILED BEFORE THE STATION HOUSE
OFFICER KADAKKAL POLICE STATION DATED 05/09/2015 AND
TRANSLATION.

RESPONDENTS' EXHIBITS :

EXT.R6(A) : TRUE COPY OF THE REPRESENTATION DATED 31.08.2015 ALONG
WITH TRANSLATION.

EXT.R6(B) : TRUE COPY OF THE REPRESENTATION DATED 19.10.2015 ALONG
WITH TRANSLATION.

EXT.R6(C) : ORIGINAL PHOTOGRAPHS.

//TRUE COPY//

PA TO JUDGE

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 27718 OF 2015

Dated this the 4th day of November, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court seeking police protection *inter alia* alleging that respondents 6 to 9 are causing obstruction in the matter relating to excavation of Laterite Building Stone as permitted under Ext.P1 permit.

2. According to the petitioner, he is a co-owner and in possession of 2 Acres 88 cents of property in Survey No.36/2 of Ulliyeeri Village of Koilandi Taluk and quarrying is being done only with respect to an area of 7.717 Ares in the aforesaid property which has been permitted in terms of Ext.P1. According to the petitioner, respondents 6 to 9 have no right to obstruct the quarrying and for raising threats. They are creating obstruction and taking law into their own hands by preventing the petitioner from entering into the property. Though complaint was given to the Police, no action has been taken in the matter. Hence this writ petition is filed.

3. Counter affidavit has been filed by respondents 6 to 9 stating some grievance with reference to the permit granted by the Geologist. It is stated that the area of 7.717 Ares which is forming part of a large extent of land has not been demarcated by the Geologist. That apart respondents submit that if the quarrying activities are done, it will affect the water source in the locality. Accordingly, they have given a representation to the Geologist which is pending consideration.

4. Having regard to the aforesaid factual situation it is clear that the petitioner has already obtained a permit for quarrying, it cannot be physically obstructed by respondents 6 to 9. If respondents 6 to 9 have any grievance regarding the grant of permit, it is always open for them to challenge the same in appropriate proceedings. On account of the apprehension expressed by the petitioner, we permit the petitioner to do the quarrying only after the site being identified and demarcated either by the Geologist or a representative of the Geologist. Even after such identification, if there is any obstruction, the 4th respondent shall ensure maintenance of law and order situation

and to prevent respondents 6 to 9 or their men from obstructing the work of petitioner.

The Writ Petition is allowed as above.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**