

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 27994 of 2015 (Y)

PETITIONER(S) :

**SOUDA, AGED 53 YEARS,
W/O.AZEES, MULAKKALMPILLY HOUSE, CHITTETHUKARA,
THRIKKAKARA, ERNAKULAM.**

**BY ADVS.SRI.K.R.VINOD
MS.JENCY SUSAN JOSE
SRI.V.SRI NATH**

RESPONDENT(S) :

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
HOME AFFAIRS DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE SUPERINTENDENT OF POLICE (RURAL),
ALUVA, ERNAKULAM DISTRICT, PIN-683 101.**
- 3. THE CIRCLE INSPECTOR OF POLICE,
KURUPPAMPADY, ERNAKULAM DISTRICT, PIN-683 547.**
- 4. THE SUB INSPECTOR OF POLICE,
KURPPAMPADY, ERNAKULAM DISTRICT, PIN-683 545.**
- 5. SUBAIR, AGED ABOUT 50 YEARS, S/O.NOT KNOWN,
PUTTUKADAN HOUSE, PATHALAPARAMBU,
VALAYANCHIRANGARA P.O., PERUMBAVOOR-683 542.**
- 6. ANWAR, AGED ABOUT 45 YEARS, S/O.NOT KNOWN,
CHETTIKUDUY HOUSE, VATTAKKATHUPADY,
PERUMBAVOOR-683 542.**
- 7. SHAFI, AGED ABOUT 47 YEARS, S/O.NOT KNOWN,
C/O. ANWAR, VATTAKKATHUPADY, PERUMBAVOOR-683 542.**

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**8. THE GEOLOGIST,
DEPARTMENT OF MINING & GEOLOGY, DISTRICT OFFICE,
ERNAKULAM, KOCHI-682 030.**

**R1 TO R4 & R8 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R6 BY ADVS. SRI.P.G.SURESH
SRI.G.SUDHEER (THURAVOOR)
SRI.RAJAN VISHNURAJ
SRI.V.HARISH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-10-2015, ALONG WITH W.P(C).NO.27995 OF 2015 AND
W.P.(C).NO.28020 OF 2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: THE COPY OF THE BUILDING PERMIT NO. 541/2014-15 ISSUED BY THE SECRETARY, RAYAMANGALAM GRAMA PANCHAYAT IN FAVOUR OF THE PETITIONER, DATED 24-06-2015.

EXHIBIT P2: THE COPY OF THE POSSESSION AND NON-ATTACHMENT CERTIFICATE ISSUED BY THE VILLAGE OFFICER, RAYAMANGALAM VILLAGE.

EXHIBIT P3: THE COPY OF THE SANCTIONED BUILDING PLAN ISSUED BY THE SECRETARY, RAYAMANGALAM GRAMA PANCHAYAT.

EXHIBIT P4: THE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE RESPONDENTS NO.2 TO 4 DATED 21-07-2015.

EXHIBIT P5: THE COPY OF THE JUDGMENT OF THIS HON'BLE HIGH COURT IN W.P.(C).NO.22620/2015 DATED 07-08-2015.

EXHIBIT P6: THE COPY OF THE ACKNOWLEDGMENT ISSUED FROM THE OFFICE OF THE 8TH RESPONDENT DATED 24.08.2015

EXHIBIT P6(A): THE TRANSLATED VERSION OF THE ACKNOWLEDGMENT ISSUED FROM THE OFFICE OF THE 8TH RESPONDENT DATED 24-08-2015.

RESPONDENT(S)' EXHIBITS :

EXHIBIT R6(A): TRUE PHOTOGRAPHS OF THE ILLEGAL GRANITE AND SOIL MINING BEING DONE BY THE PETITIONER IN THE SAID PROPERTY.

EXHIBIT R6(B): A TRUE PHOTOCOPY OF THE OFFICE MEMORANDUM DATED 18.05.2012 ISSUED BY THE MINISTRY OF ENVIRONMENT AND FOREST.

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) Nos. 27994, 27995 & 28020 of 2015

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Dated this, the 16th day of October, 2015

J U D G M E N T

Shaffique, J.

Petitioners have approached this Court seeking police protection in the matter relating to construction of separate residential buildings for the petitioners.

2. It is stated that they have already obtained necessary building permits from the local authority and since granite was available in the property, which requires to be removed for the purpose of levelling the property to make it suitable for construction of the building, necessary intimation had been given to the Geologist as well. Petitioners submit that respondents 5 to 7 are obstructing the development of the property and though complaint was given to the police, no action has been taken by the police in the matter.

3. Counter affidavits had been filed by the 6th respondent in these cases *inter alia* stating that the idea behind obtaining the

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building permits is only for the purpose of removing sand as well as the granite from the property. It is contended that the intention is not construction of the building.

4. Learned Government Pleader on instructions would submit that the Geologist had given clear instructions to the Revenue authorities to ensure that no granite is removed from the aforesaid site which requires pass as provided under the Kerala Minor Mineral Concession Rules, 2015.

5. Learned counsel for the petitioners also submits that they have no intention to remove a single piece of rock/granite from the property and whatever granite is available will be used for the purpose of construction and for development of the property.

6. Though it is contended by the learned counsel for 6th respondent that petitioners require environmental clearance for the purpose of removing granite, in so far as appropriate provisions had been made under Rule 106 of the Kerala Minor Mineral Concession Rules, 2015, we are of the view that the said rule covers the position and therefore such contention is not acceptable.

Under such circumstances, we are of the view that these

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writ petitions can be disposed of as under;

(i) It is made clear that the petitioners shall undertake quarrying operations, if any, in the property only for the purpose of construction of the building and that no portion of the granite shall be transported to any other place as undertaken by the petitioners.

(ii) That if the petitioners undertake the development activities for the purpose of construction of the building and if there is any obstruction from respondents 5 to 7 or their men, 4th respondent shall ensure maintenance of law and order and also ensure that no obstruction is being caused to the development and construction activity being undertaken by the petitioners.

(iii) Police shall also ensure that the granite is not transported from the said site.

(sd/-)

ASHOK BHUSHAN, CHIEF JUSTICE

(sd/-)

A.M. SHAFFIQUE, JUDGE

True Copy PS to Judge

Rp

16/10/2015