

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 29496 of 2015 (J)

PETITIONER(S) :

**P.N.LEELA, AGED 65 YEARS,
W/O.LATE RAJAPPAN, VATTATHOTTIYIL HOUSE,
NENMENIKUNNU.P.O., WAYANAD DISTRICT.**

**BY ADVS.SRI.KRISHNA PRASAD. S
SRI.B.SIBI**

RESPONDENT(S) :

- 1. GEOLOGIST,
DISTRICT OFFICE, MINING AND GEOLOGY DEPARTMENT,
MEENANGADI, WAYANAD DISTRICT- 673 591.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, KALPETTA, WAYANAD DISTRICT- 673 121.**
- 3. THE TAHSILDAR,
TALUK OFFICE, SULTHANBATHERY, WAYANAD DISTRICT- 673 121.**
- 4. THE VILLAGE OFFICER,
VILLAGE OFFICE, NOOLPUZHA VILLAGE, WAYANAD DISTRICT- 673 592.**
- 5. SULAIMAN,
POOLANKUNNATHU HOUSE, MALAVAYAL, THOVARIMALA.P.O.,
SULTHANBATHERY-673 592.**
- 6. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM DISTRICT, PIN-695 001.**

R1 TO R4 & R6 BY GOVERNMENT PLEADER SRI.P.P.PADMALAYAN

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

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: A TRUE COPY OF THE TAX RECEIPT REGARDING THE PROPERTIES OF THE PETITIONER DATED 17.06.2015.**
- P2: A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 23.07.2015 BEFORE THE KRISHI BHAVAN, NOOLPUZHA.**
- P3: A TRUE COPY OF THE CERTIFICATE ISSUED TO THE PETITIONER BY THE PANCHAYAT PRESIDENT, NOOLPUZHA GRAMA PANCHAYAT DATED 03.08.2015.**
- P4: A TRUE COPY OF THE CERTIFICATE ISSUED TO THE PETITIONER BY THE CHAIRPERSON FOR STANDING COMMITTEE FOR DEVELOPMENT, NOOLPUZHA GRAMA PANCHAYAT DATED 23.07.2015.**
- P5: A TRUE COPY OF THE CIRCULAR/GUIDELINES BEARING NUMBER 896/M3/2015 DATED 09.03.2015 ISSUED BY THE DIRECTORATE OF MINING AND GEOLOGY.**
- P6: A TRUE COPY OF THE APPLICATION DATED 20.08.2015, SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT WHICH WAS RECEIVED ON 22.08.2015.**
- P7: A TRUE COPY OF THE FIR MADE IN CRIME NO.890 OF 2015 OF SULTHANBATHERY POLICE STATION.**
- P8: A TRUE COPY OF THE AUCTION ADVERTISEMENT DATED 14.09.2015 ISSUED BY THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 29496 of 2015

Dated this the 11th day of November, 2015

J U D G M E N T

Petitioner is the owner and in possession of some agricultural properties to an extent of 3 Acres 59 cents in Sy.No.550/1, 539/5,539/7 in Noolpuzha Village, Sulthanbathery Taluk in Wayanad District. Petitioner found it necessary to dig a pond in her agricultural land for the irrigation of crops and also to conduct fish farming. She started the work of pond in her property in the end of July 2015. According to the petitioner, she was told that the petitioner is required to pay royalty amount fixed by the first respondent for the proper disposal of the sand excavated during the digging of pond. Petitioner submitted an application before the first respondent to accept royalty. According to the petitioner, when the application was pending before the first respondent, the Sulthanbathery Police came to the property of the petitioner and registered a crime alleging that

petitioner and another person carried out mining of ordinary sand and stored in the property of the petitioner illegally. This has been seized by the authority. The Tahsildar has conducted auction sale of the ordinary sand excavated from the property of the petitioner. Party respondent is the successful bidder.

2. This Court issued notice to the party respondent. He did not turn up. Petitioner submits that she is prepared to pay any amount including royalty under the Mines and Minerals (Development and Regulation) Act, 1957 (for short 'MMD&R Act'). Considering the facts and circumstances, following directions are issued.

Auction conducted in favour of the fifth respondent shall be cancelled. Any amount deposited by the fifth respondent shall be returned to him by the Tahsildar. First respondent/the Geologist shall take a decision in the matter and allow the petitioner to lift the seized sand on payment of the amount determined by him. Needful shall be done within a period of three weeks from the date of receipt of a copy

of this judgment. If the petitioner fails to pay the amount as determined by the Geologist, it is open for the official respondents to re-auction the sand and also to recover any loss suffered consequent upon the re-auction.

This writ petition is disposed of as above.

A.MUHAMED MUSTAQUE,
Judge

MBS/

