

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 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 30185 of 2015 (W)

PETITIONERS:-

- 1. M/S.AMPADIYIL GRANITES,
VALLICODE, KOTTAYAM P.O., PATHANAMTHITTA - 689 656
REPRESENTED BY ITS PROPRIETOR
SRI.SADANANDAN, AGED 59 YEARS**
- 2. M/S. J & S GRANITES COMPANY,
MUPPRAMON, V-KOTTAYAM P.O., PATHANAMTHITTA - 689 565.**

**BY ADVS.SRI.BECHU KURIAN THOMAS (SR.)
SRI.PAUL JACOB (P)
SRI.ENOCH DAVID SIMON JOEL
SRI.S.SREEDEV
SRI.RONY JOSE
SRI.GEORGE A.CHERIAN**

RESPONDENTS:-

- 1. DISTRICT POLICE CHIEF
PATHANAMTHITTA, PIN - 689 645.**
- 2. DEPUTY SUPERINTENDENT OF POLICE,
PATHANAMTHITTA, PIN - 689 645.**
- 3. SUB INSPECTOR OF POLICE,
KONNI POLICE STATION,
PATHANAMTHITTA DISTRICT - PIN - 689 645.**
- 4. M.K.VIJAYAN
S/O. KITTAN, PLAVILAYIL, MENCHERI MELETHIL
V.KOTTAYAM, PATHANAMTHITTA DISTRICT, PIN - 689 648.**
- 5. JYOTHISH, AGED 31 YEARS,
S/O.RAMACHANDRAN NAIR, JYOTHISH BHAVAN, V.KOTTAYAM
PATHANAMTHITTA DISTRICT, PIN - 689 648.**
- 6. K.S.SUJITH, AGED 34 YEARS
S/O.SURENDRAN NAIR, KOCHIPUTHEDATH, V.KOTTAYAM
PATHANAMTHITTA DISTRICT, PIN - 689 648.**

- 7. SURESH
S/O.RAGHAVAN PILLAI, KADUMAN THURUTHIYIL, V.KOTTAYAM
PATHANAMTHITTA DISTRICT, PIN - 689 648.**
- 8. N.B.THANKACHAN, AGED 50 YEARS,
S/O.ABRAHAM BABY, NIRAV KALAYIL, V.KOTTAYAM
PATHANAMTHITTA DISTRICT, PIN - 689 648.**
- 9. ROY THOMAS, AGED 48 YEARS
KULATHUMKAROTTU HOUSE, ANGADIKKAL NORTH, THALAYIRA
PATHANAMTHITTA DISTRICT, PIN - 689 648.**
- *10. K.S.THOMAS, AGED 58 YEARS
S/O.SAMUEL, KULATHUKAROTT, ANGADIKKAL NORTH
PATHANAMTHITTA DISTRICT
PIN - 689 648. (DELETED)
* RESPONDENT NO.10 DELETED AS
PER ORDER DATED 21.10.2015 IN I.A.15259/2015**

**R1 TO R3 BY STATE ATTORNEY SRI.P. VUAYARAGHAVAN
R6 & 9 BY ADV. SRI.P.G.SURESH
SRI.G.SUDHEER (THURAVOOR)
SRI.RAJAN VISHNURAJ
SRI.V.HARISH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE QUARRYING LEASE DATED 25.07.2006 ISSUED TO THE 1ST PETITIONER.

EXHIBIT P1(A): TRUE COPY OF THE QUARRYING LEASE DATED 17.10.2007 ISSUED TO THE 1ST PETITIONER.

EXHIBIT P1(B): TRUE COPY OF THE QUARRYING LEASE DATED 18.12.2007 ISSUED TO THE 1ST PETITIONER.

EXHIBIT P2: TRUE COPY OF THE QUARRYING LEASE DATED 11.05.2011 ISSUED TO THE 2ND PETITIONER.

EXHIBIT P2(A): TRUE COPY OF THE 2ND QUARRYING LEASE DATED 11.05.2011 ISSUED TO THE 2ND PETITIONER.

EXHIBIT P2(B): TRUE COPY OF THE QUARRYING LEASE DATED 11.05.2011 ISSUED TO THE 2ND PETITIONER.

EXHIBIT P3: TRUE COPY OF THE CONSENT DATED 21.05.2015 ISSUED TO THE 1ST PETITIONER.

EXHIBIT P3(A): TRUE COPY OF THE CONSENT DATED 21.05.2015 ISSUED TO THE 1ST PETITIONER.

EXHIBIT P3(B): TRUE COPY OF THE CONSENT DATED 21.05.2015 ISSUED TO THE 1ST PETITIONER.

EXHIBIT P4: TRUE COPY OF THE CONSENT DATED 08.05.2015 ISSUED TO THE 2ND PETITIONER.

EXHIBIT P4(A): TRUE COPY OF THE CONSENT DATED 25.04.2015 ISSUED TO THE 2ND PETITIONER.

EXHIBIT P4(B): TRUE COPY OF THE CONSENT DATED 20.05.2015 ISSUED TO THE 2ND PETITIONER.

EXHIBIT P5: TRUE COPY OF THE PANCHAYAT LICENCE DATED 23.04.2014 ISSUED TO THE 1ST PETITIONER.

EXHIBIT P5(A): TRUE ENGLISH TRANSLATION OF EXT.P5.

EXHIBIT P6: TRUE COPY OF THE PCNAHAYAT LICENCE DATED 23.04.2014 ISSUED BY THE PANCHAYAT TO THE 2ND PETITIONER.

EXHIBIT P6(A): TRUE ENGLISH TRANSLATION OF EXT.P6.

EXHIBIT P7: TRUE COPY OF THE ORDER DATED 31.03.2015 IN WP(C)10494/2015.

WP(C).No. 30185 of 2015 (W)

EXHIBIT P7(A): TRUE COPY OF THE ORDER DATED 26.06.2015 IN WP(C)10494/2015.

EXHIBIT P8: TRUE COPY OF THE ENVIRONMENTAL CLEARANCE CERTIFICATE DATED 09.08.2015 ISSUED BY THE SEIAA TO THE PETITIONERS.

EXHIBIT P9: TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXHIBIT P9(A): TRUE ENGLISH TRANSLATION OF EXT.P9.

EXHIBIT P10: TRUE COPY OF THE RECEIPT DATED 21.09.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P10(A): TRUE ENGLISH TRANSLATION OF EXT.P10.

RESPONDENT(S)' EXHIBITS :

EXT.R4(a): COPY OF THE MINUTES OF THE SPECIAL GRAMA SABHA MEETING HELD ON 5/7/2014 ALONG WITH ITS TRANSLATION.

EXT.R4(b): COPY OF THE JUDGMENT DT 28/8/2014 IN WRIT PETITION (CIVIL) NO. 22688/2014.

EXT.R4(c): COPY OF THE SURVEY REPORT DT 30/6/2015 FILED BY TALUK SURVEYORS, KONNI BEFORE THE ADDITIONAL TAHSILDHAR, KONNI ALONG WITH ITS TRANSLATION

EXT.R4(d): COPY OF THE REPRESENTATION DT 5/12/2014 SUBMITTED BEFORE THE DIRECTOR, SELAA ALONG WITH ITS TRANSLATION.

EXT.R4(e): COPY OF THE DAILY ORDER DT 10/0/2015 ISSUED BY THE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI.

//TRUE COPY//

P.A. TO JUDGE

bp

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.30185 of 2015

Dated this the 30th day of October 2015

J U D G M E N T

Shaffique, J

This writ petition is filed by the petitioners seeking for police protection in the matter relating to conduct of a quarry. It is alleged that respondents 4 to 9 and their men are physically obstructing the conduct of quarry. Petitioners also submit that they are in possession of all necessary licence/permission including Environmental Clearance from the competent authorities. All the documents are produced before this Court.

2. The learned Government Pleader, on instructions, would submit that the District Collector had directed the Tahsildar to issue proceedings under the Land Conservancy Act (hereinafter referred to as 'the Act') in respect of a small portion of land which is coming within the premises of the petitioners.

3. It is submitted by the petitioners that notice had been issued under the Act for which reply has already been submitted. Learned counsel for the petitioners, would, however, submit that

the land conservancy proceedings relates only to one cent of land within the entire area of about 15 hectares.

4. Learned counsel for respondents 6 and 9 submits that they have challenged the grant of environment clearance before the National Green Tribunal (NGT) which is pending consideration before the said authority. Until such time, an order is passed by NGT, no direction, as sought for, should be granted. It is also submitted that notice had been ordered in the said application by the NGT.

5. Having regard to the aforesaid factual situation, it is clear that the petitioners are having valid licence for quarrying granite and have necessary licence/permission including environmental clearance, which cannot be obstructed by respondents 4 to 9 or any person claiming under them. If any such obstruction is caused, definitely, the police is liable to interfere and provide necessary protection. As far as the land conservancy proceedings are concerned, it can continue and the revenue authorities are entitled to take back the possession of the property, if it is found that the petitioners are in possession of any Government land.

In the said circumstances, this writ petition is disposed of as under:

i) This order shall not stand in the way of the revenue authorities proceeding under the Act or the National Green Tribunal proceeding with the application pending before the said authority challenging the environmental clearance granted in this case.

ii) In the event there is any obstruction from respondents 4 to 9 or their men, the police shall ensure maintenance of law and order and shall also ensure free ingress and egress of the petitioners and their workmen to their business premises.

lii) This order, however, will be subject to any further order that may be passed by the National Green Tribunal in the matter.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)
(sd/-)
(A.M.SHAFFIQUE, JUDGE)

True Copy

PA to Judge

jsr/30/10/2015

