

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 33278 of 2015 (H)

PETITIONER:

**ALIYAMMA YOHANNAN, W/O YOHANNAN,
AGED 50 YEARS, CHIRATHALAKAL HOUSE,
MADAPPALLY MURI, MADAPPALLY VILLAGE,
CHANGANASSERY TALUK, KOTTAYAM DISTRICT.**

BY ADV. SRI.AJITH MURALI

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, KOTTAYAM,
KOTTAYAM DISTRICT-686001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
KOTTAYAM, CHANGANASERRY TALUK,
KOTTAYAM DISTRICT-686001.**
- 3. THE TAHSILDAR, CHANGANASERRY TALUK,
KOTTAYAM DISTRICT-686001.**
- 4. THE VILLAGE OFFICER, MADAPPALLY VILLAGE,
CHANGANASSERY TALUK, KOTTAYAM DISTRICT-686001.**
- 5. THE SECRETARY, MADAPPALLY GRAMA PANCHAYATH,
CHANGANASERRY TALUK, KOTTAYAM DISTRICT-686001.**
- 6. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
KOTTAYAM DISTRICT-686001.**
- 7. THE DIRECTOR,
DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM-695001.**

R1 TO R4 , R6 & R7 BY GOVT. PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: THE TRUE COPY OF THE BUILDING PERMIT NO.A3-6121/2014 DATED 15.12.2014 ISSUED BY THE SECRETARY OF MADAPPALLY GRAMA PANCHAYATH.
- EXHIBIT P2: THE TRUE COPY OF THE PERMIT NO.44/2015-16/1159/DOY/ML/2015 ISSUED BY THE 6TH RESPONDENT DATED 17.4.2015.
- EXHIBIT P3: THE TRUE COPY OF THE PROHIBITORY ORDER NO.B10-6670/2015 DATED 8.6.2015 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P4: THE TRUE COPY OF THE ORDER NO.1159/DOY/ML/2015 DATED 13.7.2015 ISSUED BY THE 6TH RESPONDENT.
- EXHIBIT P5: THE TRUE COPY OF THE DEMAND NOTICE AND NOTICE OF DEMAND PRIOR TO ATTACHMENT OF LAND NO.2015/876/5/2010 DATED 7.8.2015 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P6: THE TRUE COPY OF THE REPORT NO.1581/DOY/ML/2015 DATED 20.5.2015 SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 6TH RESPONDENT.
- EXHIBIT P7: THE TRUE COPY OF THE REPORT NO.152/2015 DATED 11.6.2015 SUBMITTED BY THE 4TH RESPONDENT BEFORE THE 1ST RESPONDENT.
- EXHIBIT P8: THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE 6TH RESPONDENT ON 18.8.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 33278 of 2015

Dated this the 3rd day of November, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 order passed against the petitioner by the Geologist and Ext.P5 consequential demand notice issued to the petitioner for recovery of amounts confirmed against the petitioner by Ext.P4 order. The prayer of the petitioner in the writ petition is to quash Ext.P4 order and Ext.P5 demand notice for the reasons stated in the writ petition. Although various contentions have been raised in the writ petition against Ext.P4 order, I find that Ext.P4 order is one, that is passed under the Kerala Minor Mineral Concession Rules and against the said order, the petitioner has an effective alternate remedy by way of appeal to the appellate authority in terms of Rule 98 of the Kerala Minor Mineral Concession Rules, 2015. The challenge against Ext.P4 order must, therefore, lie before the appellate authority under the said Rule, and cannot be made in these proceedings under Article 226 of the Constitution of India. Accordingly, I dismiss the writ petition in its challenge against Ext.P4 order and Ext.P5 demand notice and relegate the petitioner to his alternate remedy of preferring an appeal against Ext.P4 order before the appellate authority under the Kerala Minor Mineral Concession Rules, 2015.

The learned counsel for the petitioner would submit that he would require some time to pursue his appellate remedy before the appellate authority under the Kerala Minor Mineral Concession Rules. Taking note of the said submission, I direct that, coercive steps pursuant to Ext.P5 demand notice shall be kept in abeyance for a period of one month so as to enable the petitioner to approach the appellate authority under the Kerala Minor Mineral Concession Rules, 2015, against Ext.P4 order.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE