

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 34524 of 2014 (M)

PETITIONER(S):

- 1. C.A.SHAJI AGED 51 YEARS
S/O.K.C. ABRAHAM, CONTRACTOR, CHERUVULLIL HOUSE
THOPPIL - KATTETHU ROAD, THIRUVAMKULAM P.O.
ERNAKULAM DISTRICT - 682 305.**
- 2. SULAIMAN,
HOUSE NO. 9/232, CHEMBILIKADAVIL HOUSE, KOZHIKKARA
KAPPUR PANCHAYATH, OTTAPALAM TALUK,
PALAKKAD DISTRICT, PIN-- 679 552.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.P.TABHILASH**

RESPONDENT(S):

- 1. GOVERNMENT OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF AGRICULTURE, GOVERNMENT SECRETARIT
THIRUVANANTHAPURAM - 695 001.**
- 2. DIRECTOR,
ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY
PALLIMUKKU, PETTAH P.O., THIRUVANANTHAPURAM - 695 024.**
- 3. KERALA LAND DEVELOPMENT CORPORATION
LIMITED, THRISSUR - 680020
REPRESENTED BY ITS CONSTRUCTION ENGINEER.**
- 4. REVENUE DIVISIONAL OFFICER,
OTTAPALAM, PALAKKAD - 679 101.**
- 5. GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT
TOWN BUS STAND COMPLEX, PALAKKAD- 678 001.**
- 6. VILLAGE OFFICER,
KAPPUR VILLAGE, KAPPUR P.O., PATTAMBI VIA
PALAKKAD DISTRICT, PIN-- 679 552.**

**BY ADV. SRI.A.ABDULKHARIM, SC, KERALA LAND DEVP.CORPN. LTD.
BY ADV.SRI.M.MUHAMMED SHAFI, SR.GOVERNMENT PLEADER
BY SRI.A.ABDULKHARIM, SC, KERALA LAND DEVP.CORPN. LTD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-04-2015 ALONG WITH W.P.(C).NOS.35422/2014 & 35477/2014, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE AGREEMENT NO. 8/CE/2012-13 DATED 20/02/2013 EXECUTED BETWEEN THE 1ST PETITIONER AND THE 3RD RESPONDENT.

EXHIBIT-P2-TRUE COPY OF THE DESCRIPTION OF WORKS INVOLVED IN EXHIBIT-P1 AGREEMENT.

EXHIBIT-P3-TRUE COPY OF THE SCHEDULE 'A' ATTACHED TO EXHIBIT-P1 AGREEMENT.

EXHIBIT-P4-TRUE COPIES OF THE RELEVANT PAGES OF THE ACCOUNT OF WORK EXECUTED BY THE 1ST PETITIONER, MAINTAINED AT THE OFFICE OF THE 3RD RESPONDENT PERTAINING TO THE PROGRESS OF THE WORK AND THE PAYMENTS DISBURSED TO THE 1ST PETITIONER.

EXHIBIT-P5-TRUE COPY OF THE RELEVANT WORK BILL, OF BILL REGISTER NO. 40/2014-15 PERTAINING TO THE DATE OF COMPLETION OF WORK INVOLVED IN EXHIBIT-P1 AGREEMENT.

EXHIBIT-P6-TRUE COPY OF THE AGREEMENT DATED 27/09/2014 ENTERED BETWEEN THE PETITIONERS.

EXHIBIT-P7-TRUE COPY OF THE APPLICATION DATED 20/08/2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT-P8-TRUE COPY OF THE RECOMMENDATION NO. G-7175/2013 DATED 20/08/2014 OF THE 4TH RESPONDENT FORWARDED TO THE OFFICE OF THE 2ND RESPONDENT.

EXHIBIT-P9-TRUE COPY OF THE PROCEEDINGS BEARING FILE NO. 640/SEIAA/KL/4936/2014 DATED 04/11/2014 ISSUED BY THE COMPETENT AUTHORITY FUNCTIONING UNDER THE 2ND RESPONDENT.

EXHIBIT-P10-TRUE COPY OF THE LETTER DATED 27/09/2014 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P11-THE ORIGINAL PHOTOGRAPH OF THE PROPERTY OF THE 2ND PETITIONER, FROM WHERE HE PROPOSES TO COLLECT THE ORIGINAL SOIL FOR THE PURPOSE OF EXECUTING THE BALANCE WORK INVOLVED IN THE EXHIBIT-P1 AGREEMENT.

EXHIBIT-P12-THE ORIGINAL PHOTOGRAPH EVIDENCING THE WORK IN PROGRESS INVOLVED IN EXHIBIT-P1 AGREEMENT.

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//TRUE COPY//

PA TO JUDGE

P.R. RAMACHANDRA MENON, J.

W.P(C). Nos. 34524, 35422 & 35477 of 2014

Dated this the 10th day of April, 2015

J U D G M E N T

The issue involved in these cases are similar. Hence they are dealt with together. The prayers raised in WP(C) No.34524 of 2014 are in the following terms:

- i. issue a writ of certiorari or any other appropriate writ, order or direction quashing Ext.P10 proceedings of the 3rd respondent.*
- ii. issue a writ of mandamus or any other appropriate writ, order or direction commanding the 5th respondent to issue 'P' Form/required pass for the collection and transportation of 5000 M3 of ordinary soil from the property of the 2nd petitioner to the site involved in Ext.P1 agreement, forthwith;*
- iii. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to consider and dispose of Ext.P7 application, forthwith;*
- iv. issue such other writ, order or direction which may deem fit in the facts and circumstances of the case."*

2. The case of the petitioners is that, the petitioners submitted applications for 'Environmental Clearance' before the 2nd respondent as per Ext.P7, but the same was not considered. The petitioners were let known that, there was no Committee to consider the application for 'Environmental Clearance'. This

made the petitioners to approach this Court, seeking for a direction to be given to the 2nd respondent to consider Ext.P7 application for 'Environmental Clearance'. The pendency of the matter for quite long, is stated as causing irreparable losses and hardships to the petitioners and hence the writ petition.

3. Heard the learned Government Pleader as well.

4. The learned counsel for the petitioners points out that, by virtue of the relevant provisions of law and the mandate given by the Apex Court, Environmental Clearance Committee has to be constituted within '30 days' from the date when the Office becomes vacant, particularly in view of Clause 3(5) of the State Environmental Impact Assessment Notification, 2006. It is stated that, though a Committee was constituted in the State earlier, the Office became vacant on 02.11.2014 and the same is still to be re-constituted. There is callous inaction/lapses on the part of the State/Central Government in this regard and the petitioners have been put to suffer quite a lot. By virtue of the laxity on the part of the concerned respondents, the entire operations have come to a stand still, which have very much adversely affected the on-going projects and the developmental measures althrough out.

5. The learned Government Pleader points out that,

necessary steps have already been taken by the State to reconstitute the Committee and a proposal was forwarded to the Central Government, who is the notifying authority, much before expiry of the term of the former Committee. Some clarifications were sought for, which were also furnished to the Central Government in the 2nd week of January, 2015.

7. After hearing both the sides, this Court finds that there cannot be any doubt or objection with regard to the necessity to constitute a Committee in the manner as prescribed and it is for the Committee to consider the applications to be preferred by the persons like the petitioners herein.

8. In the said circumstances, there will be a direction to the 4th respondent to complete necessary steps in this regard for constituting the Committee and notifying the same in accordance with law. This exercise shall be completed at the earliest, at any rate, within 'one month' from the date of receipt of a copy of this judgment. Once the Committee is constituted as above, the application preferred by the petitioners shall be considered by the State Environmental Impact Assessment Authority as constituted above and appropriate orders shall be passed in accordance with law, after affording an opportunity of hearing to the petitioners,

which exercise shall be completed within a further period of 'one month'.

The writ petition stands disposed of accordingly. The petitioners shall produce a copy of this judgment, along with a copy of the writ petition, before the concerned respondent, for further steps.

P.R. RAMACHANDRA MENON, JUDGE.