

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 34568 of 2015 (U)

PETITIONER :

**C.C.VARGHESE
S/O. C.V.CHAKKU, CHAKKIATHMOODA, CHULLI P.O.
KUTTIPPARA, ANGAMALY, ERNAKULAM.**

**BY ADVS.SRI.PHILIP J. VETTICKATTU
SRI.B.PREMNATH**

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR,
OFFICE OF THE DISTRICT COLLECTOR, COLLECTORATE
CIVIL STATION, KAKKANAD, ERNAKULAM - 682 030.**
- 2. THE DIRECTOR
MINING & GEOLOGY DEPARTMENT
DIRECTORATE OF MINING & GEOLOGY, KESAVADASAPURAM
PATTAM PALACE P.O., TRIVANDRUM - 695 004.**
- 3. THE DISTRICT GEOLOGIST
ERNAKULAM, CIVIL STATION, KAKKANAD - 682 030.**
- 4. THE TAHSILDAR
ALUVA TALUK, ERNAKULAM DISTRICT
PIN - 683 101.**
- 5. THE VILLAGE OFFICER
MALAYATTOOR VILLAGE, ALUVA, ERNAKULAM
PIN - 683 587.**

R1 TO R5 BY GOVT. PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 - TRUE COPY OF PATTa ISSUED UNDER RULE 9(2) OF THE KERALA LAND ASSIGNMENT RULES, 1964, BEARING NO. PF 147/81.
- EXT. P2 - TRUE COPY OF TAX RECEIPT SHOWING REMITTANCE OF LAND TAX FOR THE PERIOD 2015-2016.
- EXT. P3 - TRUE COPY OF NOC DT. 29.7.2011 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXT. P4 - TRUE COPY OF QUARRYING PERMIT DT. 30.9.2013 IN RESPECT OF PURAMBOKE LAND.
- EXT. P5 - TRUE COPY OF EXPLOSIVE LICENSE DT. 26.12.2014 ISSUED BY THE EXPLOSIVE DEPARTMENT TO THE PETITIONER.
- EXT. P6 - TRUE COPY OF CONSENT ISSUED BY THE POLLUTION CONTROL BOARD DT. 30.6.2015.
- EXT. P7 - TRUE COPY OF LETTER OF INTENT DT. 29.5.2015 ISSUED BY THE GEOLOGIST.
- EXT. P8 - TRUE COPY OF CERTIFICATE DT. 24.7.2015 ISSUED BY THE 5TH RESPONDENT.
- EXT. P8(a) - TRUE COPY OF CERTIFICATE ISSUED BY THE TAHSILDAR, ALUVA TALUK.
- EXT. P9 - TRUE COPY OF RELEVANT PAGES OF APPLICATION FOR MINING LEASE WITH FORWARDING REPORT OF 3RD RESPONDENT.
- EXT. P10 - TRUE COPY OF LETTER DT. 25.8.2015 ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT.
- EXT. P11 - TRUE COPY OF THE APPLICATION FOR NOC SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT. P12 - TRUE COPY OF REPORT DT. 26.8.2015 FORWARDED BY THE TAHSILDAR TO THE DISTRICT COLLECTOR.
- EXT. P13 - TRUE COPY OF COMMUNICATION ISSUED BY THE 1ST RESPONDENT REJECTING EXT. P11 APPLICATION FOR NOC.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.34568 of 2015

Dated this the 17th day of November, 2015

JUDGMENT

The petitioner is the owner and in possession of 01.00.80 hectares of land comprised in Survey No.162/3 of Block No.22 of Malayattoor Village, Aluva Taluk, Ernakulam District. This was obtained by the father of the vendor, namely, Thevan in the year 1981 under the Kerala Land Assignment Rules, 1964. The petitioner applied for mining lease in respect of the above land and also in respect of the puramboke land adjacent to aforementioned land. The puramboke land having an extent of 70.48 acres of land situated in Re-survey No.284 of Malayattoor Village.

2. The Tahsildar by Ext.P3 proceedings reported that the revenue authority has no objection in granting mining lease. The petitioner applied for quarrying lease as per Ext.P9 before the Director of Department of Mining and Geology. The Director, Department of Mining and Geology Department as per Ext.P10 noted certain defects in the application. It is obvious that the

defects noted are on account of want of NOC issued by the District Collector. Accordingly, the petitioner approached the District Collector by Ext.P11. Ext.P12 is the enquiry report submitted by the Tahsildar before the District Collector. By Ext.P13, the District Collector insisted production of environment clearance for processing NOC.

3. This Court is of the view that the stand of the District Collector that the environment clearance is required for issuance of NOC is unsustainable. It is essentially a matter could be considered by the Director while granting mining lease. Therefore, if there is no other impediment, NOC shall be issued to the petitioner. It is also to be noted that the petitioner claims title based on Ext.P1 patta issued under the Kerala Land Assignment Rules. However, it is seen that the Government reserved the right of mines and quarries subjacent to the land. Therefore, the Government can grant mining lease in terms of Ext.P1 assignment. The Government have also recently issued Order No.593/15 dated 11.11.2015, guiding the manner in which the minor permission has to be granted in the assigned land under the Kerala Land

Assignment Rules. In the light of the above Government Order, this Court is of the view that the application for NOC shall be considered afresh within one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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