

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 34605 of 2015 (A)

PETITIONER(S):

**JANASAMBARKA SAMITHI,
REG. NO. ER/431/2011, ERNAKULAM DISTRICT COMMITTEE,
PULIMUTTIL BUILDING, PERINGALA POST, PIN - 683 565,
REP. BY ITS SECRETARY, SRI E. K. ABDUL KHADER,
S/O.E. A. KOCHUNNI, ERUPPAKOTTIL HOUSE, PERINGALA P.O.,
ERNAKULAM DISTRICT.**

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
CIVIL STATION, ERNAKULAM, KAKKANAD, PIN - 682 030.**
- 2. THE TAHSILDAR,
KUNNATHUNADU TALUK, ERNAKULAM, PIN - 683 565.**
- 3. THE VILLAGE OFFICER,
KUNNATHUNADU VILLAGE, ERNAKULAM , PIN - 683 565.**
- 4. THE GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY, CIVIL STATION,
KAKKANAD, PIN - 682 030.**
- 5. AHAMMED ABDULLA,
ERUPPAKOTTIL KIZHAKKEPUTHENPURAYIL, PERINGALA,
PIN - 689 565.**

R1-R4 BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-11-2015, ALONG WITH WPC. 35866/2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 34605 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1:-TRUE COPY OF THE ENVIRONMENT CLEARANCE NO. 360/SEIAA/ECI/2519/2014
DTD 9/6/2015 ISSUED BY THE AUTHORITY.**

**P2:-TRUE COPY OF THE NO OBJECTION CERTIFICATE NO L12/58288/2015/K.DIS BY
THE IST RESPONDENT DTD 1/9/2015.**

**P3:-TRUE COPY OF THE QUARRYING PERMIT ISSUED BY THE 4TH RESPONDENT
DTD 8/9/2015.**

**P4:-TRUE COPY OF THE PHOTOGRAPHS SHOWING THE EXTENT OF ORDINARY
EARTH REMOVED AND THE PRESENT POSITION OF THE HILLY AREA.**

P5:-TRUE COPY OF THE ONE OF THE FORM - OA ISSUED BY THE 5TH RESPONDENT.

**P6:-TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE
IST RESPONDENT DTD 11/11/2015.**

**P7:-TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE
3RD RESPONDENT DTD 9/11/2015.**

P8:-TRUE COPY OF THE ORDER BY THE 4TH RESPONDENT DTD 11/11/2015

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C) Nos.34605 & 35866 of 2015

Dated this the 27th day of November, 2015

JUDGMENT

These writ petitions are related to removal and extraction of ordinary earth by Sri.Ahammed Abdulla from the area of 48.87 Ares in Survey Nos.219/10-3 and 219/8 of Kunnathunad Village, Kunnathunad Taluk in Ernakulam District. W.P.(C) No.34605/2015 is filed by an organization called by 'Janasambarka Samithi', alleging illegal removal of ordinary earth by Sri.Ahammed Abdulla. This Court on 17.11.2015 passed the following interim order:

“Learned Government Pleader takes notice for respondents 1 to 4. Urgent notice by speed post to 5th respondent.

There shall be a direction to respondents 1 to 4 to ensure that illegal excavation by the 5th respondent is stopped forthwith. Appropriate decision shall be taken based on Ext.P3 without any delay.”

2. Sri.Ahamed Abdulla filed W.P.(C) No.35866/2015 challenging Ext.P8 stop memo issued by the Geologist. This stop memo was issued stating that Sri.Ahamed Abdulla has misused 'P forms' issued from the Office of the Geologist.

3. Janasambarka Samithi's main contention before this Court that the ordinary earth is being removed in violation of the permit issued to Sri.Ahamed Abdulla and he is misusing the 'P forms' issued to him. It is their case, Sri.Ahammed Abdulla has already removed the ordinary earth excess quantity than permitted as per the permit.

4. Sri.Ahammed Abdulla's case is that he has not violated the permit issued to him. He has removed and transported the ordinary earth in accordance with the permit and the 'P forms' issued to him.

5. Essentially, the issue is regarding whether Sri.Ahammed Abdulla has contravened permit conditions. This Court is of the

view that the Geologist shall conduct site inspection of the area in question and find out whether Sri.Ahammed Abdulla has extracted the ordinary earth in excess quantity than permitted. If the Ahammed Abdulla has not removed the entire quantity which was permitted, the Geologist shall permit him to remove the quantity permitted as per the permit issued to him.

6. In regard to the question regarding misuse of 'P forms' unless any violation has been found out against Sri.Ahammed Abdulla in terms of the Kerala Minerals (Prevention of illegal mining, storage and transportation) Rules, 2015. It cannot be said that he has misused 'P forms'. It is open for the Geologist to conduct any enquiry in this regard. However, that will not stand in the way of Sri.Ahammed Abdulla in removing the ordinary earth in accordance with the permit if he has not removed the entire quantity as permitted.

Therefore, these writ petitions are disposed of. Appropriate decision shall be taken by the Geologist within ten days after conducting the site inspection. If Sri.Ahammed Abdulla has not removed the entire quantity, necessarily, the permit shall be extended to enable him to remove the quantity he was permitted to remove.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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