

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 36758 of 2015 (T)

PETITIONER(S) :

**T.T.KOMUKUTTY, AGED 55 YEARS,
S/O.MOIDEENKUTTY, MANAGING PARTNER,
JASIM'S HOLLOW BRICKS & STONE CRUSHER, VALAMTHODE,
MATILAYAM POST, MANANTHAVADY-VIA, WAYANAD DISTRICT,
PIN- 670 731 (THACHERUPADIKKAL THAZHATH HOUSE,
KANAMANGALAM P.O., THIROORANGADI TALUK, MALAPPURAM
DISTRICT).**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.N.SHAMSUL HUDA**

RESPONDENT(S) :

- 1. GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF ENVIRONMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.**
- 2. KERALA STATE BIODIVERSITY BOARD, L-14, JAL NAGAR,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM- 695 001,
REPRESENTED BY ITS MEMBER SECRETARY.**
- 3. DISTRICT ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD, WAYANAD,
JASAM COMPLEX, PINANGODE ROAD, KALPETTA,
WAYANAD DISTRICT, PIN- 673 121.**
- 4. GEOLOGIST, MINING AND GEOLOGY DEPARTMENT,
DISTRICT OFFICE, MEENANGADI, WAYANAD DISTRICT, PIN- 673 591.**
- 5. VILLAGE OFFICER, THONDERNADU VILLAGE, THONDERNADU
PANCHAYAT, MANANDAVADI VIA, WAYANAD DISTRICT, PIN- 670 731.**

**R1, R2, R4 & R5 BY GOVERNMENT PLEADER SRI.M.R.ARUNKUMAR
R3 BY ADV. SRI.B.PRASANTH, S.C**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE QUARRYING PERMIT DATED 20.11.2013, VALID UP TO 19.11.2014 ISSUED BY THE 4TH RESPONDENT.

EXHIBIT P2: TRUE COPY OF THE ORDER DATED 22.07.2015 ISSUED BY THE 4TH RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE PROCEEDING DATED 11.05.2015 OF THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES, ERNAKULAM.

EXHIBIT P4: TRUE COPY OF THE CONSENT NO.PCB/WND/ICO/R2/899/2013 DATED 27.12.2013, VALID UP TO 19.11.2014 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE LICENCE DATED 16.04.2014 VALID UP TO 19.11.2014 ISSUED BY THE THONDERNADU GRAMA PANCHAYAT.

EXHIBIT P6: TRUE COPY OF THE OFFICE MEMORANDUM DATED 04.03.2014 ISSUED BY THE MINISTRY OF ENVIRONMENT & FOREST, GOVERNMENT OF INDIA.

EXHIBIT P7: TRUE COPY OF THE DRAFT NOTIFICATION DATED 10.03.2014 ISSUED BY THE MINISTRY OF ENVIRONMENT & FOREST, GOVERNMENT OF INDIA.

EXHIBIT P8: TRUE COPY OF THE PROCEEDING NO.2580 OF THE 3RD RESPONDENT.

EXHIBIT P8(A): TRUE COPY OF THE LETTER DATED 29.10.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P9: TRUE COPY OF THE REPRESENTATION DATED 20.11.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXHIBIT P10: TRUE COPY OF THE CERTIFICATE DATED 20.11.2015 ISSUED BY THE TAHSILDAR, MANANDAVADY.

EXHIBIT P11: TRUE COPY OF THE LIST OF ESA LANDS IN THONDERANDU VILLAGE.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

A.Muhamed Mustaque, J.

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W.P.(C) No.36758 of 2015

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Dated this the 4th day of December, 2015.

JUDGMENT

1. Petitioner is aggrieved by the inaction on the part of the 3rd respondent in issuing consent to conduct the quarrying operations. He has produced Ext.P10 certificate issued by the Tahsildar and Ext.P11 list of ESA lands in Thondernadu village showing that the property in the possession of the petitioner is not included within the boundaries of ESA.

2. Therefore, this court is of the view that the Pollution Control Board shall verify the fact from Tahsildar and shall take a decision in the matter, within a period of one month. In the meanwhile, no coercive steps shall be taken against the petitioner for want of consent.

Writ petition is disposed of as above.

Muhamed Mustaque, Judge.

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