

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

WP(C).No. 36841 of 2015 (E)

PETITIONER(S):

**SHERIFF A.H, AGED 50 YEARS,
S/O.HYDROSE, ETTUKATTIL VEEDU, P.O.EDATHALA NORTH,
ALUVA, ERNAKULAM DISTRICT, PIN-683 564.**

**BY ADVS.SRI.P.N.SANTHOSH
SMT.K.P.GEETHA MANI
SRI.P.N.APPUKUTTAN
SMT.ASWATHI APPUKUTTAN**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, CIVIL STATION, KAKKANAD,
PIN-682 030.**
- 2. THE DISTRICT GEOLOGIST,
DISTRICT OFFICE, MINING & GEOLOGY DEPARTMENT,
CIVIL STATION, KAKKANAD, PIN-682 030.**

BY GOVERNMENT PLEADER SRI.M.R.ARUNKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- A TRUE COPY OF THE QUARRYING LEASE AGREEMENT DATED 10.3.2008 EXECUTED BY THE BROTHER-IN-LAW OF THE PETITIONER WITH THE STATE GOVERNMENT.
- P2- A TRUE COPY OF THE PROCEEDINGS OF THE DIRECTOR OF MINING AND GEOLOGY DATED 27.2.2008 ISSUED TO THE BROTHER-IN-LAW OF THE PETITIONER.
- P3- A TRUE COPY OF THE EXPLOSIVE LICENCE DATED 14.11.2011 ISSUED TO THE PETITIONER BY THE JOINT CHIEF CONTROLLER OF EXPLOSIVES, SOUTH CIRCLE, CHENNAI, WHICH IS VALID TILL 31.3.2016.
- P4- A TRUE COPY OF THE CONSENT TO OPERATE/RENEWAL ORDER DATED 07.04.2015 ISSUED TO THE PETITIONER WHICH IS VALID UP TO 31.03.2016.
- P5- A TRUE COPY OF THE CONSENT TO OPERATE THE CRUSHER UNIT DATED 25.06.2015 ISSUED TO THE PETITIONER WHICH IS VALID UP TO 31.6.2018.
- P6- A TRUE COPY OF THE CURRENT LICENCE WHICH IS VALID UP TO 31.03.2006 ISSUED BY THE SECRETARY, PAIPRA GRAMA PANCHAYAT TO THE PETITIONER.
- P7- A TRUE COPY OF THE CURRENT LICENCE DATED 01.04.2015 OF THE CRUSHER UNIT WHICH IS VALID UP TO 31.3.2016 ISSUED BY THE PAIPRA GRAMA PANCHAYAT TO THE PETITIONER.
- P8- A TRUE COPY OF THE MINING MATE'S CERTIFICATE OF COMPETENCY DATED 8.4.2015 ISSUED TO THE SAID MEHABOOB BASHA H UNDER THE METALLIFEROUS MINES REGULATIONS, 1961 ALONG WITH THE CERTIFICATE OF ST.JOHN AMBULANCE(INDIA) ISSUED BY INDIAN RED CROSS SOCIETY.
- P9- A TRUE COPY OF THE DECLARATION DATED 13.8.2015 SUBMITTED BY SRI.MEHABOOB BASHA H. TAKING CHARGE AS MINES MANAGER OF THE PETITIONER'S QUARRY.
- P10- A TRUE COPY OF THE NOTICE NO.S3.13/2009 DATED 10.12.2013 ISSUED BY THE ASSISTANT ENGINEER P.V.I.P. SECTION PERUMBAVOOR TO THE PETITIONER.
- P11- A TRUE COPY OF THE JUDGMENT DATED 22.01.2014 IN WRIT PETITION NO.31236 OF 2013 OF THIS HONOURABLE COURT.
- P12- A TRUE COPY OF THE STATEMENT TAKEN BY THE ADM FROM THE PARTIES ON 09.06.2014.
- P13- A TRUE COPY OF THE COMMUNICATION DATED 18.09.2014 ISSUED BY THE DISTRICT COLLECTOR TO THE ASSISTANT ENGINEER P.V.I.P. SECTION PERUMBAVOOR.

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- P14- A TRUE COPY OF THE COMMUNICATION DATED 11.11.2014 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.**
- P15- A TRUE COPY OF THE INTERIM ORDER DATED 20.11.2014 IN W.P[C] NO.30857/2014 OF THIS HON'BLE COURT.**
- P16- A TRUE COPY OF THE INTERIM ORDER DATED 2.3.2015 IN W.P[C]. NO.30857/2014 OF THIS HON'BLE COURT EXTENDING THE INTERIM ORDER TILL DELIVERY OF JUDGMENT.**
- P17- A TRUE COPY OF THE CAUSE TITLE SHOWING THE NUMBERS OF THE WRIT PETITIONS IN THE COMMON JUDGMENT DATED 23.3.2015 IN W.P[C] NO.31148/2014 AND OTHER CONNECTED CASES.**
- P18- A TRUE COPY OF THE COMMUNICATION DATED 21.11.2015 GIVEN BY THE DISTRICT COLLECTOR TO THE GEOLOGIST, MINING AND GEOLOGY DEPARTMENT, KAKKANAD.**
- P19- A TRUE COPY OF THE STOP MEMO DATED 24.11.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
- P20- A TRUE COPY OF THE APPLICATION DATED 24.9.2015 SUBMITTED BY THE PETITIONER BEFORE THE EXECUTIVE ENGINEER, OFFICE OF THE EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT, P.V.I.P. DIVISION NO.2, ALUVA.**
- P21- A TRUE COPY OF THE REPLY DATED 26.10.2015 GIVEN BY THE ASSISTANT EXECUTIVE ENGINEER, PVIP SUB DIVISION NO.1, TO THE PETITIONER.**
- P22- A TRUE COPY OF THE REPLY DATED 21.10.2015 GIVEN BY THE GEOLOGIST (STATE PUBLIC INFORMATION OFFICER), DEPARTMENT OF MINING AND GEOLOGY, CIVIL STATION, KAKKANAD TO THE PETITIONER.**
- P23- A TRUE COPY OF THE APPLICATION DATED 3.8.2015 SUBMITTED BY THE PETITIONER BEFORE THE EXECUTIVE ENGINEER, PVIP DIVISION NO.2.**
- P24- A TRUE COPY OF THE REPLY DATED 24.8.2015 ISSUED BY THE PUBLIC INFORMATION OFFICER, OFFICE OF THE EXECUTIVE ENGINEER, PVIP DIVISION NO.2.**
- P25- A TRUE COPY OF THE COMMUNICATION DATED 28.3.2015 ISSUED BY THE DIRECTOR OF MINING AND GEOLOGY TO THE PETITIONER ALONG WITH THE REGISTRATION CERTIFICATE OF THE REGISTERED METAL CRUSHER UNIT.**
- P26- A TRUE COPY OF THE CHALAN RECEIPTS MAKING THE PAYMENTS ON 28.3.2015, 22.6.2015 AND 28.9.2015.**
- P27- A TRUE COPY OF THE CHALAN RECEIPT DATED 27.3.2015 SHOWING THE REMITTANCE MADE BY THE PETITIONER FOR AN AMOUNT OF RES.14 LAKHS.**

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- P28- A TRUE COPY OF THE STATEMENT OF ACCOUNTS MAINTAINED BY M/S.SAJID GRANITES FROM 20.11.2015 TO 2.12.2015 SHOWING THE LOAN LIABILITY OF RS.2,04,00,000/-
- P29- A TRUE COPY OF THE STATEMENT OF ACCOUNTS FROM 20.11.2015 TO 2.12.2015 MAINTAINED BY M/S.SAJID GRANITES IN THE FEDERAL BANK LTD., ALUVA BRANCH.
- P30- A TRUE COPY OF THE STATEMENT OF ACCOUNTS FROM 20.11.2015 TO 2.12.2015 MAINTAINED BY M/S.SAJID GRANITES IN THE FEDERAL BANK LTD., ALUVA BRANCH SHOWING A LIABILITY OF RS.47,60,000/-.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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Dated this the 11th day of December, 2015

J U D G M E N T

It appears that Assistant Engineer, Irrigation department had issued a notice to the petitioner alleging that aqueduct of the irrigation canal was damaged due to the quarrying operation and based on the notice the petitioner was directed to stop the quarrying operation. This was challenged before this Court and the Division Bench of this Court disposed the writ petition along with the batch cases by directing to pass final order after hearing all the parties. The petitioner submits that no final order has been passed and the impugned notices have been issued without hearing the petitioner.

3. This Court is of the view that the District Collector shall hear the petitioner as well as the Assistant Engineer Irrigation Department and shall take appropriate decision in this regard within six weeks from the date of receipt of the copy of

this judgment and it is only after passing final order, any action can be initiated against the petitioner. In view of the above, the impugned orders are quashed.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE