IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 15TH DAY OF DECEMBER 2020 / 24TH AGRAHAYANA, 1942

WP(C).No.6471 OF 2020(H)

PETITIONER/S:

G.K.GRANITES LIMITED, VELLAVOOR P.O., KOTTAYAM DISTRICT, PIN-686 541, REPRESENTED BY THE MANAGING DIRECTOR, SRI.GEORGE ANTONY, KIZHAKKAMBALAM P.O., KUNNATHUNAD, ERNAKULAM DISTRICT, PIN-683 562.

BY ADV. SRI.N.JAMES KOSHY

RESPONDENT/S:

1 **THE DIRECTOR OF MINING AND GEOLOGY, KESAVADASAPURAM, PATTOM PALACE P.O., THIRUVANATHAPURAM-695 004.**

2 **THE ADDITIONAL DIRECTOR OF MINING AND GEOLOGY, KESAVADASAPURAM, PATTOM PALACE P.O., THIRUVANATHAPURAM-695 004.**

3 **THE SENIOR GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY, KOTTAYAM, KOTTAYAM COLLECTORATE P.O., PINCODE-686 002**

4 **THE TAHSILDAR, TALUK OFFICE, CHANGANASSERY, PIN-686 101.**

ADDL.R5 **C.M.MATHEW, CHAKKITTAMURIYIL HOUSE, INDUSTRIAL NAGAR P.O., CHANGANASSERY, KOTTAYAM-686 106.**

(IS IMPLEADED AS PER ORDER DATED 2.7.2020 IN I.A.1/2020)

R1-4 BY GOVERNMENT PLEADER, SRI.Y.JAFARKHAN
R5 BY ADV. K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15.12.2020, ALONG WITH WP(C).12736/2020(N), WP(C).21733/2020(N), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 15TH DAY OF DECEMBER 2020 / 24TH AGRAHAYANA, 1942

WP(C).No.12736 OF 2020(N)

PETITIONER/S:

C.M.MATHEW, AGED 60 YEARS,
CHAKKITTAMURIYIL HOUSE, INDUSTRIAL NAGAR P.O.,
CHANGANASSERY, KOTTAYAM-686 106.

BY ADVS.
SRI.ROY CHACKO
SRI.K.C.VINCENT

RESPONDENT/S:

1 THE STATE OF KERALA, REPRESENTED BY THE SECRETARY,
DEPARTMENT OF INDUSTRIES,
THIRUVANANTHAPURAM-695 001.

2 THE DIRECTOR OF MINING AND GEOLOGY,
OFFICE OF THE DIRECTOR OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM-695 001.

3 THE GEOLOGIST, OFFICE OF THE DISTRICT GEOLOGIST,
KOTTAYAM-686 001.

4 THE TAHSILDAR (RECORDS), TALUK OFFICE,
CHANGANASSERY-686 101.

5 THE VILLAGE OFFICER,
VELLAVOOR, KOTTAYAM DISTRICT-686 101.

6 THE STATION HOUSE OFFICER,
POLICE STATION, MANIMALA-686 543.

7 G.K. GRANITES LIMITED, KIZHAKKAMBALAM P.O.,
ERNAKULAM-683 582, REPRESENTED BY ITS MANAGING
DIRECTOR, SRI.GEORGE ANTONY.

8 GEORGE ANTONY, KUREECKAL HOUSE, KIZHAKKAMBALM, KUNNATHUNADU P.O., ERNAKULAM-683 582.

9 DR. C.K. BAIJU, DIRECTOR, MINING AND GEOLOGY, OFFICE OF THE DIRECTOR OF MINING AND GEOLOGY, THIRUVANANTHAPURAM-695 001.

10 B. AJAYAKUMAR, GEOLOGIST, OFFICE OF THE DISTRICT GEOLOGIST, KOTTAYAM-686 001.

R7-8 BY ADV. SRI.N.JAMES KOSHY
R7-8 BY ADV. SRI.T.SANJAY

BY GOVERNMENT PLEADER, SRI.Y JAFFAR KHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15.12.2020, ALONG WITH WP(C).6471/2020(H), WP(C).21733/2020(N), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 15TH DAY OF DECEMBER 2020 / 24TH AGRAHAYANA, 1942

WP(C).No.21733 OF 2020(N)

PETITIONER/S:

G.K.GRANITES PUBLIC LIMITED, VELLAVOOR P.O, KOTTAYAM DISTRICT, PIN-686 541, REPRESENTED BY THE MANAGING DIRECTOR, SRI.GEORGE ANTONY, KIZHAKKAMBALAM P.O, KUNNATHUNAD, ERNAKULAM DISTRICT, PIN-683 562.

BY ADVS.
SRI.N.JAMES KOSHY
SRI.T.SANJAY

RESPONDENT/S:

1 THE DIRECTOR OF MINING AND GEOLOGY, KESAVADASAPURAM, PATTOM PALACE P.O, THIRUVANANTHAPURAM 695 004

2 THE SENIOR GEOLOGIST, DEPARTMENT MINING AND GEOLOGY, KOTTAYAM, KOTTAYAM COLLECTORATE P.O, PIN-686 002.

3 THE TAHSILDAR, TALUK OFFICE, CHANGANASSERY, PIN-686 101.

ADDL.R4 C.M.MATHEW, AGED 59 YEARS, CHAKKITTAMURIYIL HOUSE, INDUSTRIAL NAGAR P.O., CHANGANASERY, KOTTAYAM-683362.
(IS IMPLEADED AS PER ORDER DATED 15.12.2020 IN I.A.NO.1 OF 2020)

R4 BY ADV. K.C.VINCENT

BY GOVERNMENT PLEADER, SRI.Y JAFFAR KHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15.12.2020, ALONG WITH WP(C).6471/2020(H), WP(C).12736/2020(N), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[WP(C).6471/2020, WP(C).12736/2020, WP(C).21733/2020]

Dated this the 15th day of December 2020

The genesis of the dispute, in this case, at present, originates from the direction given by this Court in W.P.(C) No.25746/2018 filed by the writ petitioner in W.P.(C) No.12736/2020.

2. The controversy is in regard to the mining conducted by G.K.Granites Limited, the petitioner in W.P.(C) Nos.21733/2020 and 6471/2020. These writ petitions can be disposed of by a common judgment. W.P.(C) No.25746/2018 filed by the petitioner in W.P.(C) No.12736/2020 was disposed of on 05.12.2019 along with the connected matter in other cases. The operative portion of the judgment is recorded herewith:

> "*The afore exercise shall be completed comprehensively by the Director of Mining and Geology as expeditiously as is possible, but not later than two months from the date of receipt of a copy of this judgment; and until which time, though the company*

will be entitled to continue with their quarrying activities, it will be subject to further orders to be issued by the Director in terms of this judgment- including as to whether the Lease or the Environmental Clearance will require to be cancelled or otherwise.

Needles to say, any further quarrying activity being carried on by the Company will be limited exclusively to the area which has now been delimited by the Geologist in the report now filed before this Court and any violation thereof shall be met with all necessary consequences under the law to its fullest extent.

It goes without saying that the directions above are to be complied with by the Director of Mining and Geology, himself without delegating it to any other officer; and that necessary orders shall also be issued by the said Authority alone."

3. Purportedly acting on the direction, the Director of Mining and Geology passed an order on 04.06.2020. Consequently, an order was also passed by the District Geologist, Kottayam. A Contempt Case was initiated before this Court by the writ petitioner in W.P.(C) No.12736/2020. Pursuant to the initiation of the Contempt Case, the orders of the Director of Mining and Geology as well as the Geologist, were withdrawn.

W.P.(C) No.12736/2020 was filed challenging those orders of the Director of Mining and Geology and the District Geologist, Kottayam. Though other prayers were also sought in W.P.(C) No.12736/2020, those prayers may not have a bearing, at this stage. The main challenge is the orders passed by the Director of Mining and Geology and the District Geologist, Kottayam. Both orders now stand withdrawn.

4. The petitioner in W.P.(C) No.21733/2020 approached this Court for the reason that subsequent order passed by the Director of Mining and Geology on 14.9.2020 was pursuant to the direction of this Court in the judgment in W.P.(C) No.25746/2018 and connected case. The Director, taking note of the subsequent challenge made by the petitioner, declined the request to remove the stock of granite. The case of the writ petitioner in W.P.(C) No.21733/2020 is that they have effected payment of Rs.50,48,080/- and based on that they are entitled to remove the stock.

5. The Director of Mining and Geology has not taken a final decision in the matter. There is no difficulty for the Director to pass final orders in accordance with law.

6. The learned counsel for the petitioner in W.P.(C) No.12736/2020, placing reliance on **Joby v. District Collector [2017 (1) KLT 183]** argued that the petitioner in W.P.(C) No.21733/2020 cannot be allowed to remove illegally extracted granite stone from the mining premises.

7. The learned counsel appearing for the petitioner in W.P.(C) No.21733/2020, placing reliance on **Common Cause v. Union of India and Others [(2020) 8 SCC 399]** argued that as per the dictum of the Apex Court, they are entitled to remove the stock. I relegate this matter to the Director to take a decision, after adverting to the decisions cited at the Bar by the learned counsel for the petitioners. Appropriate decision shall be taken within a period of

three weeks, after hearing the writ petitioners. Accordingly, all these writ petitioners are disposed of. All other contentions urged in the writ petitions are left open.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

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APPENDIX OF WP(C)NO.6471/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE ORDER NO.355/2016-17/3098/M3/2016 DATED 27.08.2016 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
EXHIBIT P2	TRUE COPY OF THE QUARRYING LEASE DATED 24.11.2016 IS EXECUTED BETWEEN GOVERNOR OF KERALA.
EXHIBIT P3	TRUE COPY OF THE ORDER NO.1009/DOY/2018 DATED 03.09.2019 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
EXHIBIT P4	TRUE COPY OF THE CERTIFICATE NO.810/019 DATED 17.09.2019 ISSUED TO THE PETITIONER BY VILLAGE OFFICER, VELLAVOOR.
EXHIBIT P5	TRUE COPY OF THE CERTIFICATE NO.E2-3427/18 DATED 19.09.2019 ISSUED TO THE PETITIONER BY THE TAHSILDAR, CHANGANASSERY.
EXHIBIT P6	TRUE COPY OF THE INTERIM ORDER DATED 15.11.2019 IN W.P(C)NO.30579/2019 PASSED BY THE HON'BLE HIGH COURT OF KERALA.
EXHIBIT P7	TRUE COPY OF THE NOTICE NO.2967/DOY/ML/2019 DATED 16.11.2019 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
EXHIBIT P8	TRUE COPY OF THE LETTER NO.E2-3427/18 DATED 26.11.2019 ISSUED BY THE TAHSILDAR, CHENGANASSERY TO THE 3RD RESPONDENT.
EXHIBIT P9	TRUE COPY OF THE JUDGMENT IN W.P(C) NO.30579/2019 DATED 05.12.2019 OF THE HON'BLE HIGH COURT OF KERALA.
EXHIBIT P10	TRUE COPY OF THE REPRESENTATION DATED 27.12.2019 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
EXHIBIT P11	TRUE COPY OF THE ORDER NO.3184/M3/2019 DATED 03.04.2019 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P12	**TRUE COPY OF THE FORM L REGISTRATION CERTIFICATE NO.136/2019-20/RMCU/KTM/3184/M3/2019 DATED 03.04.2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
EXHIBIT P13	**TRUE COPY OF THE CERTIFICATE OF THE CONSOLIDATED ROYALTY PAYABLE FOR RS.32,00,000/- FOR THE PERIOD FROM 03.04.2019 TO 31.03.2020 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
EXHIBIT P14	**TRUE COPY OF THE CHALLAN RECEIPT DATED 30.03.2019 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT TO THE PETITIONER.**
EXHIBIT P15	**TRUE COPY OF THE DETAILS OF THE BUILDING STONE COLLECTED BY THE PETITIONER AFTER EXHIBIT P9 JUDGMENT DATED 05.12.2019.**
EXHIBIT P16	**TRUE COPY OF THE REPRESENTATION DATED 19.02.2020 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
EXHIBIT P17	**TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ON 19.02.2020 BEFORE THE 1ST RESPONDENT AND PASSED WRITTEN ORDER ON THE SAID REPRESENTATION.**
EXHIBIT P17A	**COPY OF THE TYPED/READABLE COPY OF THE WRITTEN ORDER DATED 19.02.2020 OF THE 1ST RESPONDENT.**

RESPONDENT'S/S EXHIBITS:

EXHIBIT R5(a)	**A COPY OF THE COMMUNICATION DATED 20/2/2020 ISSUED FROM THE OFFICE OF THE DIRECTOR OF MINING AND GEOLOGY.**

APPENDIX OF WP(C)NO.12736/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE TAX RECEIPT DATED 6.9.2016, RELATING TO RE-SURVEY 312/1
EXHIBIT P1 (A)	TRUE COPY OF THE TAX RECEIPT DATED 6.9.2016, RELATING TO RE-SURVEY 312/3-1.
EXHIBIT P2	TRUE COPY OF THE LEASE DEED DATED 24.11.2016 IN FAVOR OF THE 7TH RESPONDENT
EXHIBIT P3	TRUE COPY OF THE JUDGMENT DATED 5.12.2019 IN WPC NOS 25746 OF 2018 AND 30579 OF 2019
EXHIBIT P4	TRUE COPY OF THE COMMUNICATION FROM THE OFFICE OF THE DIRECTOR OF MINING AND GEOLOGY DATED 20.2.2020 ADDRESSED TO THE PETITIONER AND RECEIVED ON 25.2.2020
EXHIBIT P5	TRUE COPY OF THE COMMUNICATION FROM THE OFFICE OF THE DIRECTOR OF MINING AND GEOLOGY DATED 20.2.2020 SENT TO THE REVENUE DIVISIONAL OFFICER AND THE GEOLOGIST, KOTTAYAM.
EXHIBIT P6	TRUE COPY OF THE INTERIM ORDER IN WPC NO 6471 OF 2020 DATED 12.3.2020.
EXHIBIT P7	TRUE COPY OF THE ARGUMENT NOTES DATED 14.5.2020
EXHIBIT P8	TRUE COPY OF THE PROCEEDINGS OF THE DIRECTOR OF MINING AND GEOLOGY DATED 4.6.2020.
EXHIBIT P9	TRUE COPY OF THE PROCEEDINGS OF THE GEOLOGIST DATED 18.6.2020.
EXHIBIT P10	TRUE COPY OF THE PROCEEDINGS OF THE DIRECTOR OF MINING AND GEOLOGY DATED 16/6/2020.
EXHIBIT P11	TRUE COPY OF THE TAX INVOICE DTED 25/6/2020 ISSUED BY THE GK GRANITES LIMITED.
EXHIBIT P12	TRUE COPY OF THE ORDER OF THE MUNSIFF COURT, CHANGANASSERY, IN I.A. NO.1477 OF 2019 IN O.S.NO.348 OF 2019 DATED 31.01.2020.

APPENDIX OF WP(C)NO.21733/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE ORDER NO. 355/2016-17/3098/M3/2016 DATED 27-08-2016 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
EXHIBIT P2	TRUE COPY OF THE QUARRYING LEASE DATED 24-11-2016 IS EXECUTED BETWEEN GOVERNOR OF KERALA AND THE PETITIONER.
EXHIBIT P3	TRUE COPY OF THE ORDER NO. 1009/DOY/2018 DATED 03-09-2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
EXHIBIT P4	TRUE COPY OF THE OF THE CERTIFICATE NO. 810/19 DATED 17-09-2019 ISSUED TO THE PETITIONER BY VILALGE OFFICER, VELLAVOOR.
EXHIBIT P5	TRUE COPY OF THE CERTIFICATE NO. E2-3427/18 DATED 19-09-2019 ISSUED TO THE PETITIONER BY TAHSILDAR, CHANGANASERY.
EXHIBIT P6	TRUE COPY OF THE INTERIM ORDER DATED 15-11-2019 IN W.P(C) NO. 30579/2019 PASSED BY THE HON'BLE HIGH COURT OF KERALA.
EXHIBIT P7	TRUE COPY OF THE NOTICE NO. 2967/DOYML/2019 DATED 16-11-2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
EXHIBIT P8	LETTER NO. E2-3427/18 DATED 26-11-2019 ISSUED BY THE TAHSILDAR, CHENGANASSERY TO THE 2ND RESPONDENT.
EXHIBIT P9	TRUE COPY OF THE JUDGMENT IN W.P(C) NO. 30579/2019 OF THE HON'BLE HIGH COURT OF KERALA DT 5/12/2019.
EXHIBIT P10	TRUE COPY OF THE REPRESENTATIOND ATED 27-12-2019 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
EXHIBIT P11	TRUE COPY OF ORDER NO. 3184/M3/2019 DATED 03-04-2019 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P12	TRUE COPY OF THE FORM L REGISTRATION CERTIFICATE NO.1 36/2019-20/RMCU/KTM/3184/M3/2019 DATD 03-04-2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
EXHIBIT P13	TRUE COPY OF THE CERTIFICATE OF THE CONSOLIDATED ROYALTY PAYABLE FOR RS. 32,00,000/- FOR THE PERIOD FROM 03-04-2019 TO 31-03-2020 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
EXHIBIT P14	TRUE COPY OF THE CHALLAN RECEIPT DATED 30-03-2019 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT TO THE PETITIONER.
EXHIBIT P15	TRUE COPY OF THE REPRESENTATIOND ATED 19-02-2020 SUBMITTED BY THE PETITIONER BEFORE THE ADDITIONAL DIRECTOR OF MINING AND GEOLOGY, OFFICE OF THE 1ST RESPONDENT.
EXHIBIT P16	TRUE COPY OF THE INTERIM ORDER DATED 12-03-2020 IN W.P(C) NO. 6471/2020 OF THE HON'BLE HIGH COURT OF KERALA
EXHIBIT P17	TRUE COPY OF THE ORDER NO. 83/2020-21, 12170/M3/2019/DMG DATED 04-06-2020 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
EXHIBIT P18	TRUE COPY OF THE JUDGMENT DATED 03-08-2020 IN CONT.CASE (C) NO.879/2020 IN W.P(C) NO. 25746/2018 OF THE HON'BLE HIGH COURT OF KERALA
EXHIBIT P19	TRUE COPY OF THE DEMAND NOTICE NO. 1009/DOY/EM/2018 DATED 17-08-2020 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
EXHIBIT P20	TRUE COPY OF THE LETTER DATED 14-09-2020 SENT BY THE PETITIONER TO THE 11ST RESPONDENT
EXHIBIT P21	TRUE COPY OF THE ORDER NO. 228/2020-21/12170/M3/2019/DMG DATED 14-09-2020 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
EXHIBIT P22	TRUE COPY OF THE REPORT NO 333/DOY/ML/2016 DATED 23-08-2020 FROM 2ND RESPONDENT GEOLOGIST TO 2ND RESPONDENT DIRECTOR OF MINING GEOLOGY.