IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE MR. A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE S.MANU

MONDAY, THE 22ND DAY OF JULY 2024 / 31ST ASHADHA, 1946

WA NO. 424 OF 2024

AGAINST THE ORDER/JUDGMENT DATED IN WP(C) NO.9254 OF 2024 OF HIGH COURT OF KERALA

APPELLANT/S:

ROSHAN.J.BABU
AGED 35 YEARS
ROSHAN.J.BABUS/O. R.C.BABU, LAKSHMISYLAM HOUSE,
NARIKKAL.P.O, PUNALUR, KOLLAM, PIN - 691322

BY ADV JOBI JOSE KONDODY

RESPONDENT/S:

1 **THE DISTRICT COLLECTOR**
COLLECTORATE COLLECTORATE, KOLLAM, PIN - 691001

2 **THE TAHSILDAR**
KOTTARAKKARA TALUK OFFICE, KOTTARAKKARA.P.O, KOLLAM DISTRICT, PIN - 691506

3 **THE VILLAGE OFFICER**
CHAKKUVARAKKAL VILLAGE OFFICE, CHAKKUVARAKKAL. P.O, KOLLAM, PIN – 691538

SRI.ASWIN SETHUMADHAVAN (GP)

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 22.07.2024, ALONG WITH WA.688/2023, 1590/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE MR. A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE S.MANU

MONDAY, THE 22ND DAY OF JULY 2024 / 31ST ASHADHA, 1946

WA NO. 688 OF 2023

AGAINST THE ORDER/JUDGMENT DATED IN WP(C) NO.15541 OF 2022 OF HIGH COURT OF KERALA

APPELLANT/S:

KINATTUKARA METAL CRUSHER,
AGED 61 YEARS
OFFICE AT CHENKARA. P.O, IDUKKI DISTRICT, PIN
REPRESENTED BY ITS MANAGING PARTNER, K.J.THOMAS, S/O K.T.JOSEPH, KINATTUKARA HOUSE, KALAKETTY.P.O, KOTTAYAM, PIN - 686508

BY ADV V.M.KRISHNAKUMAR

RESPONDENT/S:

1 **STATE OF KERALA REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695003**

2 **DISTRICT COLLECTOR, COLLECTORATE, IDUKKI., PIN - 685603**

3 **TAHSILDAR**
UDUMBANCHOLA TALUK, TALUK OFFICE, MINI CIVIL STATION, UDUMBANCHOLA, NEDUMKANDAM, IDUKKI DISTRICT., PIN - 685553

SRI.ASWIN SETHUMADHAVAN (GP)

THIS WRIT APPEAL HAVING HAVING BEEN FINALLY HEARD ON 22.07.2024, ALONG WITH WA.424/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE MR. A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE S.MANU

MONDAY, THE 22ND DAY OF JULY 2024 / 31ST ASHADHA, 1946

WA NO. 1590 OF 2023

AGAINST THE ORDER/JUDGMENT DATED IN WP(C) NO.7446 OF 2023 OF HIGH COURT OF KERALA

APPELLANT/S:

SANIL P M
AGED 39 YEARS
S/O. KHADER MOIDEEN, PAREKATTIL HOUSE, EZHUMUTTAM.P.O, CHALASSERRY, THODUPUZHA, IDUKKI, PIN - 685605

BY ADV RAJIT

RESPONDENT/S:

1 **THE DISTRICT COLLECTOR**
COLLECTORATE KUYILIMALA.P.O, PAINAVU, IDUKKI, PIN - 685603

2 **THE TAHSILDAR**
THODUPUZHA TALUK OFFICE, THODUPUZHA (PO), IDUKKI DISTRICT, PIN - 685584

3 **THE VILLAGE OFFICER**
KARIKPDE VILLAGE OFFICE, EDAVETTY.P.O, THODUPUZHA, IDUKKI, PIN – 685588

SRI.ASWIN SETHUMADHAVAN (GP)

THIS WRIT APPEAL HAVING HAVING BEEN FINALLY HEARD ON 22.07.2024, ALONG WITH WA.424/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 22nd day of July 2024

A.Muhamed Mustaque, Acg.C.J.

The peculiar facts of this case demand peculiar intervention from the Government itself.

2. The appellants in these cases have submitted an application for NOC for conducting quarrying operations in Government land, much before the Government evolved its policy on 28.1.2021. It was not considered within the time. Had it been considered within the time, no doubt, they would not have come to this Court for the relief now sought. The problem is essentially based on the Government policy as reflected in its order dated 28.01.2021, whereby the Government decided that for No Objection Certificate for quarrying operation in Government land, the Government should set a level playing ground to different stake holders. As a result, an individual cannot demand NOC, but the Government will have to conduct auction inviting application from different proponents.

2. We do not find any illegality with the Government proposal as of now by the interference by this Court. The problem in this case is, none can access to Government land without conjunction or consent

from the private parties, who are the appellants herein.

3. In WA No.424 of 2024, the Government's land is now lying in the middle of the private property. No one can access to the Government land without his consent. Therefore, it is impossible for a third party to come and obtain right for quarrying operations. Similar is the case of other parties also. Taking note of the peculiar circumstances, we are of the view that the Government should not insist for an adherence to the order dated 28.01.2021, if the Government intends to issue a No Objection Certificate. Therefore, we are of the view that after obtaining necessary report from Tahsildar as to the lie and nature of the property, the Government should consider the application for No Objection Certificate de hors the stipulation made in Government Order dated 28.1.2021. The Tahsildar of the competent jurisdiction shall file a report in regard to the nature and lie of the property before the Principal Secretary, Revenue within a period of four weeks from today. Thereafter, if the Government is satisfied that this land cannot be accessed by any other, other than the appellants before this Court, shall take a decision whether the appellants can be given No Objection Certificate or not without further delay thereon. It is open for the Government to relegate the entire matter to the District Collector on issuance of NOC. We make it clear that we have not decided upon the validity of the Government order dated 28.1.2021. The question

regarding the validity of the Government order is left open.

Accordingly impugned orders are set aside for reconsideration as above.

Writ appeals are disposed of as above.

Sd/

A.MUHAMED MUSTAQUE

ACTING CHIEF JUSTICE

sd/

S.MANU

JUDGE

jm/