

Answered



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 2413 of 2015 (B)

PETITIONER(S) :

M/S.K.K.ROCKS & GRANITES INDIA (P) LTD.,
KOTTACKAL, TC 2/3497, PATTOM,
THIRUVANANTHAPURAM - 695 004,
REPRESENTED BY ITS MANAGING DIRECTOR,
SRI.LARUN VARGHESE.

BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.PAUL JACOB (P)
SRI.ENOCH DAVID SIMON JOEL
SRI.S.SREEDEV
SRI.RONY JOSE
SRI.GEORGE A.CHERIAN

RESPONDENT(S)/RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF MINING AND GEOLOGY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.
2. DIRECTOR,
DIRECTORATE OF MINING AND GEOLOGY, KESAVADASAPURAM,
PATTOM PALACE P.O, THIRUVANANTHAPURAM- 695 004.
3. DISTRICT COLLECTOR,
CIVIL STATION, THIRUVANANTHAPURAM- 695 001.

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-02-2015. ALONG WITH W.P.(C).NO.2411 OF 2015 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMACHANDRA MENON, J.

W.P(C). Nos. 2411, 2412, 2413, 2581,
2587 & 2591 of 2015

Dated this the 24th day of February, 2015

J U D G M E N T

The issue involved in all these cases is with regard to the challenge raised against Ext.P8 order dated 19.01.2015, whereby the District Collector in exercise of the powers stated as vested with him, intercepted the quarrying operations being pursued by the petitioners for a period of one month. Pleadings and proceedings are referred to, as given in WP(C) No.2411 of 2015.

2. The case of the petitioners is that, there is absolutely no power, jurisdiction or competence for the 3rd respondent to have issued the said order, more so when, the quarrying activities are being pursued by the petitioners on the basis of valid licences/permits and such other clearances issued from different corners.

3. The relief sought for, was opposed by the learned Government Pleader pointing out that, Ext.P8 was issued with a specific purpose especially, in view of the mounting instances of violation of the relevant provisions of law, the terms of licence and such other incriminating circumstances

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resulting in mass scale excavation being pursued quite unadvisedly, also causing much threat to the environmental equilibrium of the District and the State in turn. Several applications have been filed before this Court individually and also as Public Interest Litigations and different verdicts/interim orders have been passed. The matter had to be considered in detail, with reference to the large scale public protest being raised by the local inhabitants. It was also necessary to identify the parties concerned, with reference to the title of the parties concerned and the lease if any, as the case may be, so as to regulate the activities within the permitted area and extent. It was necessary, because of the fact that large scale encroachment and mass excavation were brought to the notice of the authorities concerned, who have taken steps with an intent to measure the matters with notice to all the parties concerned, so as to permit the concerned hands to pursue the quarrying operations within their permitted area, to the permissible extent. It was in the said circumstances that the District Magistrate felt it extremely to have issued Ext.P8 order on 19.01.2015. It was accordingly, that the period of 'one month' was clearly prescribed to carry out the

the operations in connection with the said exercise, prohibiting carrying operations, so as to facilitate proper measurement, attention and such other steps. These writ petitions were allowed accordingly, by passing an order on 03.02.2015, based on the submission made on the part of the respondents that, the operation of the impugned order was to be in effect only till 2014.

4. Today, when the matters are taken up for further consideration, the learned Government Pleader for the respondents submits on instructions that, in spite of the clear direction in Ext.P8 order requiring the parties concerned to produce the relevant records, no documents were produced by the respondents. The said submission is sought to be rebutted by the counsel for the petitioners stating that, all the relevant documents were produced by the petitioners and that the version of the respondents is not correct or sustainable. In any view of matter, it cannot be said that the respondents concerned were not having any other records to complete the process and a period of time was sought for from this Court. Even though the scope of Ext.P8 order was more with reference to

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to lay the boundaries, effecting the measurement and to
the boundaries. If there is any encroachment, it is always
for the concerned authorities to intervene at any stage,
appropriate steps in accordance with law, with notice to
parties concerned. This being the position, this Court is of the
that, Ext.P8 order has stood its time and object and the
cannot be stated as not over, to be prolonged and
strained, if the petitioners are otherwise eligible to carry out
in accordance with law.

The learned Government Pleader points out that, the
of the licences of the petitioners is already over. This Court
intend to go into the said aspect, as it does not form the
matter of consideration of this Court in these writ
petitions.

These writ petitions are disposed of accordingly.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

WP(C).No. 2413 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT 1: TRUE COPY OF THE QUARRYING PERMIT VALID TILL 09.02.2015 GRANTED TO THE PETITIONER FOR QUARRYING FROM AN EXTENT OF 0.3880 HECTARES OF PROPERTY IN SY.NO.54/1 AND 49/3-2 OF PALLICHAL VILLAGE.
- EXHIBIT P1(A): TRUE COPY OF THE CONSENT ISSUED BY THE POLLUTION CONTROL BOARD FOR CARRYING OUT QUARRYING OPERATIONS IN SY.NO.54/1 AND 49/3-2 OF PALLICHAL VILLAGE.
- EXHIBIT P1(B): TRUE COPY OF THE CONSENT ISSUED BY THE POLLUTION CONTROL BOARD FOR CARRYING OUT METAL CRUSHER UNIT IN SY.NO.53/3, 1 AND 54/3, 2.
- EXHIBIT P1(C): TRUE COPY OF THE PANCHAYAT LICENSE DATED 14.08.2014 FOR QUARRYING FROM SY.NO.54/1 AND 49/3-2.
- EXHIBIT P1(D): TRUE COPY OF THE PANCHAYAT LICENSE DATED 16.04.2014 FOR A METAL CRUSHER UNIT.
- EXHIBIT P2: TRUE COPY OF THE STOP MEMO DATED 04.04.2012 ISSUED BY THE VILLAGE OFFICER TO THE PETITIONER.
- EXHIBIT P3: TRUE COPY OF THE ORDER DATED 23.05.2012 IN W.P.(C).NO.10238/2012.
- EXHIBIT P4: TRUE COPY OF THE ORDER DATED 12.06.2013 IN I.A 7402/13 IN W.P.(C).NO.10212/2012.
- EXHIBIT P5: TRUE COPY OF ONE OF THE ASSIGNMENT ORDERS ISSUED TO THE PETITIONER'S PREDECESSOR IN INTEREST.
- EXHIBIT P6: TRUE COPY OF THE F.I.R. DATED 27.12.2014 IN CRIME NO.VC 3/14.
- EXHIBIT P7: TRUE COPY OF THE JUDGMENT DATED 01.12.2010 IN W.A 1164/2010.
- EXHIBIT P8: TRUE COPY OF THE ORDER DATED 19.01.2015 AND NUMBERED AS B.1203/2009 ISSUED BY THE 3RD RESPONDENT.

PETITIONER(S)' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

HIGH COURT OF KERALA
AT ERNAKULAM

Year and Number of Suit or
other Proceedings WPC 2413 / 2015

Name of Applicant/Advocate SRIJECU KURIAN
THOMAS

Application Number A 11975/2015

Application Date 24-02-2015

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Shafiq
Examiner