

Mohammed Vs. the Additional District Magistrate

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Court : Kerala

Decided On : Oct-03-2013

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Mohammed

Respondent : The Additional District Magistrate

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON THURSDAY, THE 3D DAY OF OCTOBER 2013 11TH ASWINA, 1935 WP(C).No. 10994 of 2012 (Y) ----- PETITIONER: ----- MOHAMMED, AGED 58 YEARS S/O. KUTTIYALI HAJI, RESIDING AT VALLIKKATTIL HOUSE CHERUKAVU VILLAGE, ERANAD TALUK, OLAVATTOOR P.O. PIN- 673 638 MALAPPURAM DISTRICT BY ADV. SRI. P. CHANDRASEKHAR RESPONDENTS: ----- 1. THE ADDITIONAL DISTRICT MAGISTRATE, MALAPPURAM, PIN-676 505.

2. THE REVENUE DIVISIONAL OFFICER PERINTHALMANNA, PIN-679 322. * 3. THE CONTROLLER OF EXPLOSIVES ERNAKULAM, PIN-682 030. * 4. THE CHIEF CONTROLLER OF EXPLOSIVES SOUTH CIRCLE 140 MARSHALS ROAD EGMORE CHENNAI 600000 * 5. THE POLLUTION CONTROL BOARD MALAPPURAM, PIN-676 505 6. THE DISTRICT COLLECTOR MALAPPURAM, PIN-676 505.

7. THE GEOLOGIST, MANJERI MALAPPURAM, PIN-679 118 8. THE DIRECTOR OF MINING AND GEOLOGY THIRUVANANTHAPURAM, PIN-695 001. * (RESPONDENTS 3 TO 5 DELETED AS PER

ORDER

DATED 30.11.2012 IN I.A. NO.13962 OF 2012 WP(C).No. 10994 of 2012 (Y) 2 9. SHRI M.C MAYIN HAJI S/O. MUNDOLIKUNHALI, CALICUT GRANITE (PVT) LTD KANNAMVETTUKAVU P.O. PULIKKAL, MALAPPURAM DISTRICT, PIN-676 551. BY SENIOR GOVERNMENT PLEADER SMT. M.J.

RAJASREE BY ADV. SRI. C.P. MOHAMMED NIAS THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03.10.2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 10994 of 2012 (Y) APPENDIX PETITIONER'S EXHIBITS:- EXT. P1 - COPY OF COMPLAINT DATED 17.04.2012 FILED BY PETITIONER BEFORE RESPONDENT NOS.1 TO 8 EXT. P2 - ACKNOWLEDGMENT CARD SIGNED BY RESPONDENT NO.1. EXT. P3 - ACKNOWLEDGMENT CARD SIGNED BY RESPONDENT NO.5. EXT. P4 - COPY OF REGISTERED DOCUMENT NO.1113 OF 1993 DATED 31.03.1993 IN FAVOUR OF 9H RESPONDENT. EXT. P5 - COPY OF THE LETTER DATED 25.06.2012 RECEIVED BY THE PETITIONER'S BROTHER MAMMIKUTTY P.K. FROM VILLAGE OFFICER, CHERUKAVU. EXT. P6 - COPY OF THE BASIC TAX REGISTER IN RESPECT OF OLD SY. NOS.242 AND 2431, 2 OF CHERUKAVU VILLAGE. EXT. P7 - COPY OF

ORDER

NO.100/2007-08/3483/M3/2007 HAS GRANTED QUARRY LEASE TO THE 9H RESPONDENT. EXT. P8 - PHOTOGRAPHS SHOWING THE AREA FROM WHERE GRANITE STONES HAVE BEEN QUARRIED BY THE 9H RESPONDENT. EXT. P9 - COPY OF THE HONOURABLE SUPREME COURT

ORDER

IN IA NOS.12 - 13 OF 2011 IN SLP (C) NOS.19628-19629 OF 2009 (DEEPAK KUMAR V. STATE OF HARYANA & OTHERS) RESPONDENTS' EXHIBITS:- EXT. R7(a) - COPY OF

ORDER

NO.100/2007-08/3483/M3/2007 DATED1705.2007 EXT. R7(b) - COPY OF THE LEASE DEED DATED2805.2007. EXT. R9(a) - COPY OF THE REGISTRATION CERTIFICATE IN FORM-S GIVEN BY THE DIRECTORATE OF MINING AND GEOLOGY, THIRUVANANTHAPURAM, TO THE9H RESPONDENT DATED0803.2012. EXT. R9(b) - COPY OF THE LICENSE ISSUED TO THE9H RESPONDENT BY THE CHERUKAVU GRAMA PANCHAYATH FOR THE PERIOD0104.2012 TO3006.2012. EXT. R9(c) - COPY OF THE LICENSE ISSUED TO THE9H RESPONDENT BY THE FACTORIES AND BOILERS DEPARTMENT FOR GRANITE CRUSHING, DATED2404.2012. (Contd....) WP(C).No. 10994 of 2012 (Y) 2 EXT. R9(d) - COPY OF THE CLEARANCE TO OPERATE, DATED2004.2011, ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE9H RESPONDENT. EXT. R9(e) - COPY OF THE CERTIFICATE ISSUED BY THE PETROLEUM AND EXPLOSIVE SAFETY ORGANISATION DATED0707.2011, TO THE9H RESPONDENT. EXT. R9(f) - COPY OF THE NO OBJECTION CERTIFICATE ISSUED TO THE9H RESPONDENT BY THE DIVISIONAL OFFICE, FIRE FORCE, CALICUT DATED0809.1999. EXT. R9(g) - COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, CHERUKAVU, THE PETITIONER. EXT. R9(h) - COPY OF THE MINING MATES CERTIFICATE OF COMPETENCY UNDER THE MINES ACT,1952 ISSUED TO THANKAPPA VELAYUDHAN, BLASTMAN. EXT. R9(i) - COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE ADDITIONAL DISTRICT MAGISTRATE, MALAPPURAM, DATED1511.1999, TO THE9H RESPONDENT. EXT. R9(j) - COPY OF THE QUARRYING LEASE RENEWAL ISSUED BY THE REVENUE DIVISIONAL OFFICER, PERINTHALMANNA DATED2508.2007. //TRUE COPY// P.A TO JUDGE sp P.R. RAMACHANDRA MENON, J.

----- W.P.C.No.10994
OF2012----- Dated this the 3rd day of October, 2013.

JUDGMENT

The petitioner has approached this Court with the following prayers:- "1) Issue a writ of prohibition or any other order or direction prohibiting the illegal and unauthorized quarrying and blasting operations conducted by respondent No.9. 2)

Issue a writ of mandamus to respondent Nos.1 to 8 to do the needful to stop the illegal and unauthorised quarrying and blasting operations conducted by respondent No.9 by acting on Exhibit P1. 3) Issue any other writ, order or direction that this Honourable Court may deem fit and proper in the facts and circumstances of the case. 4) Call for the records leading to Exhibit P7 and quash the same and consequential quarrying lease by issuing a writ of certiorari. 5) Issue a writ of mandamus or any other writ order or direction directing the Respondents 1 to 8 to take immediate action to stop the quarrying activities of the 9th respondent in Old Sy. No.242 and 243/1,2 of Cherukavi Village. 6) Issue a direction directing the 9th Respondent to quarrying activities pursuant to Exhibit P7 forthwith." 2. Going by the pleadings and prayers, this Court finds that the matter has to be considered by the National Green Tribunal. The Registry is directed to transfer the matter to the National Green Tribunal, Chennai Bench. P.R. RAMACHANDRA MENON, JUDGE
sp

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