

K.V George, vs Geologist,

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Court : Kerala

Decided On : Dec-04-2023

Judge : Honourable Mr.Justice Murali Purushothaman

Appeal No. : WP(C)/36971/2023

Appellant : K.V George,

Respondent : Geologist,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN MONDAY, THE 4TH DAY OF DECEMBER 2023 / 13TH AGRAHAYANA, 1945 WP(C) NO. 36971 OF 2023 PETITIONER: K.V GEORGE, AGED 76 YEARS S/O. LATE VARKEY, KUNNAPPILLY (H), NEENDAPARAKARA, NERIYAMANGALAM P. O, KOTHAMANGALAM, ERNAKULAM, PIN - 686 693. BY ADVS. JOBY JACOB PULICKEKUDY ANIL GEORGE SMITHA PHILIPOSE ASHIK TOM ALEX KEVIN GEORGE RESPONDENTS:

1 GEOLOGIST, MINING & GEOLOGY DEPARTMENT, DISTRICT OFFICE, CIVIL STATION, KAKKANADU - ERNAKULAM, PIN - 682 030.

2 THE DISTRICT COLLECTOR, CIVIL STATION, KAKKANADU, PIN - 682 030. 3 THE DEPUTY TAHSILDAR, AUTHORIZED OFFICER, KOTHAMANGALAM TALUK, PIN - 686 693. 4 THE VILLAGE OFFICER, THRIKKARIYOOR VILLAGE OFFICE, KOTHAMANGALAM TALUK, ERNAKULAM, PIN - 686 692. 5 THE REVENUE DIVISIONAL OFFICER, MUVATTUPUZHA, PIN - 686 669.

6 KAVALANGAD GRAMA PANCHAYATH, OFFICE OF THE KAVALANGAD GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, NELLIMATTOM P. O, KOTHAMANGALAM, ERNAKULAM, PIN - 686 693. SMT. DEEPA V. GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has filed this writ petition challenging Ext.P5 notice issued by the 1st respondent, demanding an amount of Rs.68,200/- for the illegal extraction of minerals and also Exts.P7 and P8 revenue recovery notices issued pursuant thereto. It is contended by the petitioner that Ext.P5 was issued without notice to him.

2. When the writ petition came up for admission

on 09.11.2023, this Court directed the learned Government Pleader to place on record a statement as to whether the site inspection referred to in Ext.P5 was conducted with notice to the petitioner and whether the petitioner was heard before issuing Ext.P5.

3. The learned Government Pleader, on

instructions, submits that the site inspection referred to in Ext.P5 was conducted without notice to the petitioner and that the petitioner was not heard before issuing Ext.P5.

4. Since Ext.P5 is issued in violation of the

principles of natural justice, the same is set aside. It will be open to the 1st respondent to proceed against the petitioner for illegal extraction of minerals, in accordance with law. The writ petition is disposed of with the above direction. Sd/-
MURALI PURUSHOTHAMAN JUDGE SPR APPENDIX PETITIONERS
EXHIBITS:-

EXHIBIT P1 THE TRUE PHOTOCOPY OF LETTER DATED 25.05.2017 ISSUED BY THE 6TH RESPONDENT TO THE PANCHAYATH DEPUTY DIRECTOR, ERNAKULAM. EXHIBIT P2 THE TRUE PHOTOCOPY OF LETTER DATED 28.06.2017 ISSUED BY THE TAHSILDAR TO THE REVENUE DIVISIONAL OFFICER. EXHIBIT P3 THE TRUE PHOTOCOPY OF SHOW CAUSE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 17.06.2017. EXHIBIT P4 THE TRUE COPY OF REPLY NOTICE SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 23.08.2017. EXHIBIT P5 THE TRUE PHOTOCOPY OF DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 08.01.2018. EXHIBIT P6 THE TRUE PHOTOCOPY OF THE DETAILED REPLY AND REPRESENTATION FROM THE PETITIONER TO THE 1ST RESPONDENT DATED 28.02.2017 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT. EXHIBIT P7 THE TRUE PHOTOCOPY OF REVENUE RECOVERY NOTICE NO.2023/16603/07 ISSUED UNDER SECTION 7 OF THE REVENUE RECOVERY ACT DATED 23.09.2023. EXHIBIT P8 THE TRUE COPY OF NOTICE NO.2023/16603/07 ISSUED UNDER SECTION 34 ALONG WITH THE ABOVE NOTICE DATED 23.09.2023.

RESPONDENTS EXHIBITS: NIL.

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