

Binoy Kumar vs State of Kerala,

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Court : Kerala Orders

Decided On : Jul-24-2019

Judge : Honourable Mr. Justice Anil K.Narendran

Appeal No. : WP(C)/8712/2019

Appellant : Binoy Kumar

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN
WEDNESDAY, THE 24TH DAY OF JULY 2019 / 2ND SRAVANA, 1941
WP(C).No.8712 of 2019 PETITIONER: BINOY KUMAR, AGED 41
YEARS, S/O.KUMARAN, KOTTAMALAYIL HOUSE, ARAKKUZHA
VILLAGE, MUVATTUPUZHA TALUK, PIN- 686672. BY ADV.
SRI.A.V.JAMES RESPONDENTS: 1 STATE OF KERALA, REP. BY
SECRETARY, REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN- 695001. 2 THE GEOLOGIST, MINING
AND GEOLOGY DEPARTMENT, CIVIL STATION, KAKKANAD, KOCHI-
682030. 3 ADDL.R3 THE DIRECTOR VIGILANCE AND ANTI
CORRUPTION BUREAU DIRECTORATE, PMG, VIKAS BHAVAN P.O.,

ADDL.R3 IS SUO MOTU IMPLEADED AS PER ORDER

DATED 31/5/2019 BY ADV. GOVERNMENT PLEADER SRI K.P.HARISH- SENIOR GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.07.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C)8712 OF 2019 2

JUDGMENT

The petitioner, who is running a Granite Quarry in Government tharisu land having an extent of 0.5060 Hectares in Sy.No.893/1A part of Arakuzha Village, covered by Ext.P1 quarrying lease dated 30.08.2010, which was valid till 21.07.2019, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P7 stop memo dated 26.02.2019 issued by the 2 nd respondent and direct the 2nd respondent to consider Ext.P6 application for movement permit. The petitioner has also sought for a direction to the 2nd respondent to issue movement permit on the basis of Ext.P6 application.

2. On 21.03.2019, when this writ petition came up for admission, the learned Government Pleader was directed to get instructions.

3. On 21.05.2019, when this writ petition came up for

consideration, the learned Government Pleader took notice on admission for respondents 1 and 2. The 2nd respondent was directed to file a statement on or before 29.05.2019.

4. On 31.05.2019, when this writ petition came up for WP(C)8712 OF 2019 3 further consideration, this Court passed the following;

The Director, Vigilance and Anti-corruption Bureau Directorate, PMG, Vikas Bhavan P.O., Opposite KSRTC Depot, Thiruvananthapuram, Kerala - 695 033, is suo motu impleaded as the additional 3rd

respondent. The learned Government Pleader would submit that a statement on behalf of the 2 nd respondent shall be placed on record by 04.06.2019. The learned Government Pleader shall also get instructions from the additional 3rd respondent.

5. The 2nd respondent has filed a counter affidavit, opposing the reliefs sought for in this writ petition. Paragraph 6 of the said counter affidavit reads thus;

6. Meantime based on the surprise check report of the Vigilance and Anti-corruption Bureau in the aforesaid quarry the land Revenue Commissioner has given instruction to action against the quarry and to black list the quarrying lease holder. As per the report of this respondent the Director of Mining & Geology vide letter No.10002/M3/2018 dated 22.02.2019, has given instruction to stop quarrying activities of the alleged quarrying leasers. Hence the stop memo has been issued vide letter No.DOE.2279/E1/18 dated 26.02.2019. It is submitted that the petitioner is a repeated offender. Illicit quarrying activity in the nearby Government land in Sy.No.893/1A1 pt of Arakkuzha Village of Moovattupuzha Taluk was noticed during inspection on 30.10.2018 and

WP(C)8712 OF 2019 4 hence the averment of the petitioner was carrying quarrying operation in lease area only is not true and is against the fact.

6. Today, when the case is taken up for consideration,

the learned counsel for the petitioner would submit that since the validity of Ext.P1 quarrying lease expired on 21.07.2019, the petitioner may be permitted to withdraw this writ petition. Recording the above submission made by the learned counsel for the petitioner, this writ petition is dismissed as withdrawn. Sd/- ANIL K. NARENDRAN JUDGE yd WP(C)8712 OF 2019 5 APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1 THE TRUE COPY OF QUARRYING LEAS DATED 30.08.2010. EXHIBIT P2 THE TRUE COPY OF THE NOTICE DATED 28.05.2016 BEARING NO.D.O.E./1768/E1/16 ISSUED BY THE 2ND RESPONDENT. EXHIBIT P3 THE TRUE COPY OF THE NOTICE DATED 04.07.2016 BEARING

NO.D.O.E./1768/E1/16 ISSUED BY THE 2ND RESPONDENT. EXHIBIT P4 THE TRUE COPY OF THE CHELLAN NO.90 DATED 11.01.2017. EXHIBIT P5 THE TRUE COPY OF THE MOVEMENT PERMIT NO.01/18-19 BKK/GS/DOE/929/E2/18 DATED 02.07.2018 ISSUED BY THE 2ND RESPONDENT. EXHIBIT P6 THE TRUE COPY OF THE APPLICATION FOR THE MOVEMENT PERMITS DATED 24.12.2018. EXHIBIT P7 THE TRUE COPY OF THE STOP MEMO DATED 26.02.2019 ISSUED BY THE 2ND RESPONDENT. 2ND RESPONDENT'S EXHIBITS: EXHIBIT R2(A) TRUE COPY OF THE LETTER NO.10002/M3/2018 DIRECTOR OF MINING AND GEOLOGY DATED 28.09.2018. EXHIBIT R2(B) TRUE COPY OF THE LETTER NO.LR.K4/39582/2018 DATED 29.08.2018 OF LAND REVENUE COMMISSIONER, THIRUVANANTHAPURAM. EXHIBIT R2(C) TRUE COPY OF THE SURPRISE CHECK REPORT OF THE VIGILANCE AND ANTICORRUPTION BUREAU. EXHIBIT R2(D) TRUE COPY OF THE LETTER NO.10002/M3/2018 DATED 22.02.2019. TRUE COPY P.A. TO JUDGE

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