
(2010) 11 KL CK 0161
In the High Court Of Kerala
Case No : W.A. No. 926 and 11392 of 2010

A.M. Chackochan

APPELLANT

Vs

Abbas. E. and Others

RESPONDENT

Date of Decision : 19-11-2010

Acts Referred:

Citation : (2010) 11 KL CK 0161

Hon'ble Judges : Jasti Chelameswar, C.J;P.R. Ramachandra Menon, J

Bench : Division Bench

Advocate : jOY George, for the Appellant; M.k. Chandra Mohandas, SC, for the Respondent

Judgement

1. Chelameswar, C.J.—This is an appeal arising out of W.P.(C) No. 11392 of 2010 by the Respondents therein.

2. The writ petition was filed complaining that the Appellant herein is carrying on quarrying operation in the various survey numbers at Elamadu Village in Kottarakkara Taluk. The prayer in the writ petition were as follows :

(a) issue a writ or order or direction directing the Respondents 1 to 4 to take immediate action against the illegal quarrying activities and the functioning of the crusher unit of the 5th Respondent at Elavinmoodu in Elamadu Village in Kottarakkara Taluk and take necessary penal action against the 5th Respondent

(b) issue a writ or order or direction directing the 5th Respondent not to conduct illegal and unauthorized quarrying activities in Block No. 27 in survey Nos. 115, 116, 117, 118, 121, 122, 126, 127, 264, 265 and 266 in Elamadu Village and to stop the functioning of the crusher unit

Along with the writ petition the Petitioner also prayed for an interim order in the following terms :

For the reasons stated in the accompanying affidavit and writ petition it is most respectfully prayed that this Hon'ble Court may be pleased to direct the 5th

Respondent to stop the entire quarrying operations and as well as the functioning of the crusher unit within Sy. Nos. 115, 116, 117, 118, 121, 122, 126 127, 264, 265 and 266 in Elamadu Village in Kottarakkara Taluk, till the disposal of the writ petition in the interest of justice.

3. By an order dated 31.05.2010 a learned Single Judge of this Court granted an interim order and therefore the present appeal came to be filed by the Respondent therein. At the time of admission of the appeal, there was an interim order dated 08.06.2010 by a Division Bench of this Court keeping in abeyance the abovementioned interim order for a period of two weeks. It appears that subsequently the interim order was lapsed and therefore an application came to be filed as I.A. No. 564 of 2010 seeking revival of the interim order granted on 08.06.2010.

4. On 23.07.2010, when the matter was taken up a representation was made on behalf of the writ Petitioner that the writ Petitioner was not interested to prosecute the writ petition any further. Having regard to the facts and circumstances and for the reasons recorded on that date, this Court declined to continue the interim order and in view of the un-interest of the Petitioner to prosecute the matter, we thought it fit to continue the writ petition as suo motu taken up writ petition.

5. Aggrieved by the discontinuance of the interim order, the Appellant herein carried the matter in appeal before the Supreme Court in SLP Nos. 21887 and 21888 of 2010. However, eventually opted not to press the said S.L.P., the SLP was dismissed as withdrawn by an order by the Supreme Court dated 26.10.2010. Pursuant to the directions dated 23.06.2010 the Revenue Divisional Officer, Kollam filed a report before this Court. The relevant portion reads as follows:

8. It is submitted that the Appellant is holding a crusher unit in Sy. Nos. 111, 123/3 and 122/3 as a partnership business with Nixon John, Tinson John(sons of Chackochan), Molly Chackochan etc. for which he has obtained license/permission from Panchayat, Pollution Control Board, Fire & Rescue Department, Inspector of Factories & Boilers, etc.

9. It submitted that for the quarrying purpose the 5th Respondent had obtained valid permit from the Geology Department for the following survey numbers vide permit No. referred to each.

10. It submitted that though the permit is in the name of Sri. Chackochan, he has not possessed any explosive licence. He had produced an explosive licence issued on 29.07.2010 by the Controller of Explosives for possession for use of explosives in the name of this son Tinson John, who is a partner of Aiswarya Granites. The Appellant is conducting quarrying operations in sarkar land in Sy. No. 127/6, 127/7, 263/1, 109/3 for which no permit has been obtained, and that the Tahsildar, Kottarakkara has initiated action under the Kerala Land Conservancy Act against the Appellant.

6. In view of the said report, we deem it appropriate to dispose of the writ appeal and dismiss the writ petition as not pressed. However, we place it on record that in view of the allegation contained in the abovementioned report dated 10.08.2010 that, the Appellant is carrying on quarrying operation in Government land in Survey No. 127/6, 127/7, 263/1 and 109/3, it is open to the State to take such appropriate steps as the State deems appropriate in the circumstances and in accordance with law, to prevent any illegal quarrying operation by the Appellant.