
(2023) 08 KL CK 0257
In the High Court Of Kerala
Case No : Writ Appeal No. 1515 Of 2023

Koshy Samuel

APPELLANT

Vs

Director General Of Police

RESPONDENT

Date of Decision : 25-08-2023

Acts Referred:

Citation : (2023) 08 KL CK 0257

Hon'ble Judges : Anil K. Narendran, J;P.G. Ajithkumar, J

Bench : Division Bench

Advocate : Shabu Sreedharan, Vishnu Premkumar, Amal Biju, Sidharth S.,
Zakkir Hussain P.B., M. Rajeev

Final Decision : Dismissed

Judgement

Anil K. Narendran, J.

1. The appellants filed W.P.(C)No.18877 of 2023, seeking a writ of mandamus commanding respondents 1 to 3 to provide adequate police protection to them, their representatives and workers for extracting and transporting ordinary sand from the property belonging to the 1st appellant, on the strength of Ext.P2, quarrying permit No.02/23-24/OE/DOALA-DMG/231/2023-M dated 22.05.2023 issued by the Department of Mining and Geology. They have also sought for a writ of mandamus commanding respondents 1 to 3 to take appropriate legal/penal action against respondents 4 to 7 and their men for their alleged atrocities and illegalities in the matter.

2. On 22.08.2023, when that writ petition came up for consideration, it was submitted before the learned Single Judge that a stop memo has already been issued by the Grama Panchayat to the petitioners (appellants herein) restricting removal of ordinary earth. Based on that submission, the learned Single Judge in the order dated 22.08.2023, observed as follows;

"If that is the case, interim order need not be continued. But the petitioner is free to move this writ petition, if the stop memo is varied or modified."

3. In the appeal the appellants would contend that the learned Single Judge went wrong in modifying/vacating the interim order on account of the stop memo issued by the Grama Panchayat.

4. On a query made by this Court, the learned counsel for the appellants would submit that the stop memo issued by the Grama Panchayat is under challenge in another writ petition, which is pending consideration before the learned Single Judge.

5. Heard the learned counsel for the appellants and also the learned Senior Government Pleader for respondents 1 to 3.

6. It is well settled by the judgment in Bhaskara Rao A.B. v. CBI [(2011) 10 SCC 259] that, generally, no court has competence to issue a direction contrary to law nor can the Court direct an authority to act in contravention of the statutory provisions. The Courts are meant to enforce the rule of law and not to pass the orders or directions which are contrary to what has been injected by law.

7. Having considered the materials on record and also the submissions made by learned counsel for the appellants and also the learned Senior Government Pleader, we find no reason to interfere with the interim order dated 22.08.2023 of the learned Single Judge.

8. In the instant case, the appellants have already been issued with a stop memo by the concerned Grama Panchayat imposing restrictions regarding removal of ordinary earth on the strength of Ext.P2 quarrying permit. The challenge made by the appellants against that order is pending consideration in another writ petition. During the pendency of that writ petition, the appellants cannot insist that he should be given adequate police protection for removal of sand from the property in question, ignoring the stop memo issued by the Grama Panchayat.

In the result, this writ appeal fails and the same is accordingly dismissed.