
(2010) 08 KL CK 0052

In the High Court Of Kerala

Case No : Writ Petition (C) No. 19487 of 2010 (I)

T. Stephenson

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 30-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 133, 133(1)

Citation : (2010) 08 KL CK 0052

Hon'ble Judges : P.N.Ravindran, J

Bench : Single Bench

Advocate : S.M. Prem, for the Appellant; V. Rajendran, for the Respondent

Judgement

P.N. Ravindran, J.—The main relief prayed for in this writ petition is for a direction to the District Collector, Trivandrum to implement Ext.P4 order issued by the District Magistrate, Trivandrum on 5.5.2010 u/s 133(1)(b) of the Code of Criminal Procedure, 1973. By the said order the District Magistrate, Trivandrum directed the 5th respondent herein to stop running a crusher unit and a quarry and also called upon him to show cause why the said order should not be made absolute.

2. Heard Smt. K.P. Santhi, learned Counsel appearing for the petitioner, Sri. K. Ramesh, learned Government Pleader appearing for respondents 1 to 3, Sri. K.B. Pradeep, learned Counsel appearing for the 4th respondent and Sri. V. Rajendran Perumbavoor, learned Counsel appearing for the fifth respondent. Sri. K.B. Pradeep, learned Counsel appearing for the fourth respondent submits that the Panchayat has taken a decision to proceed against the fifth respondent and to prevent the functioning of the quarry/crusher unit. The learned Counsel submits that in such circumstances the Panchayat may be permitted to proceed with the decision already taken by it.

3. A reading of Ext.P4 indicates that it is a conditional order issued u/s 133(1)(b) of the Code of Criminal Procedure, 1973 and that the 5th respondent, who is

bound by the order, has the right and liberty to have the order varied and modified. In such circumstances I am of the opinion that the relief prayed for by the petitioner cannot be granted. The petitioner can at best only seek a direction to the District Magistrate, Trivandrum to finalise the proceedings initiated by him u/s 133 of the Code of Criminal Procedure, 1973, after affording him and the 5th respondent a reasonable opportunity of being heard.

I accordingly dispose of the writ petition with a direction to the District Magistrate, Trivandrum to finalise the proceedings initiated by him and to take a final decision in the matter within two months from the date on which the petitioner produces a certified copy of this judgment before him or the District Magistrate otherwise receives a certified copy of this judgment. The contentions of the petitioner and the 5th respondent on the merits are kept open. Having regard to the fact that the decision taken by the Panchayat is not under challenge in this writ petition it is clarified that nothing contained in this judgment will stand in the way of the local authority from proceeding against the 5th respondent in accordance with law.