

Presented on: -04-2023

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE BENCH AT CHENNAI

O.A.No..... 1 4 9 .....of 2022 (SZ)

IN THE MATTER OF:

Shanakaran.....APPLICANT

Vs

State of Kerala and others.....RESPONDENTS

REPLY STATEMENT ON BEHALF OF RESPONDENT NO.8

Counsel for the 8<sup>th</sup> Respondent

P.B.SAHASRANAMAN  
S.SAI SATHYA JITH  
ADVOCATES



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

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O.A.No..... 1 4 9 .....of 2022 (SZ)

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Shanakaran.....APPLICANT

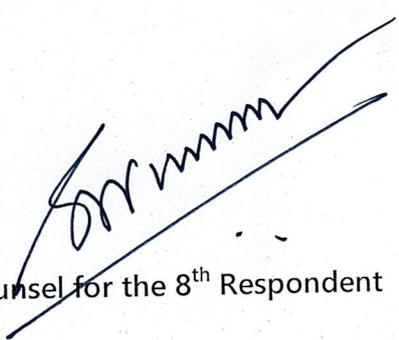
Vs

State of Kerala and others.....RESPONDENTS

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Dated this the 25<sup>th</sup> day of April, 2023.

  
Counsel for the 8<sup>th</sup> Respondent

22  
D.L. MANNING

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE BENCH AT CHENNAI

O.A.No.....149.....of 2022

IN THE MATTER OF:

Shanakaran..... ..APPLICANT

VERSUS

State of Kerala and others..... .. RESPONDENTS

REPLY STATEMENT ON BEHALF OF RESPONDENT NO. 8

MOST RESPECTFULLY SHOWETH: -

1. All facts and averments contained in the original application is incorrect and is denied.
2. It is respectfully submitted that the above OA is not maintainable either on facts or on questions of law. It is filed as an experimental litigation without ascertaining the facts. All facts and averments contained in the said O.A is denied except those that are specifically admitted hereunder.
3. It is respectfully submitted that on the very same allegations an organisation called *Paristhithi Samrakshana Samithi* has filed a public interest litigation before the Hon'ble High Court of Kerala as WP(C)No. 11400 of 2020. The Hon'ble High Court of Kerala has accepted the stand taken by the respondents 2 to 6. Taking on record the statement filed on behalf of them the Court found that



For BLUE CHIPS MINES AND INDUSTRIES

THOMAS BABU  
Managing Partner

the only question to be considered is whether mining activity in the subject lands is admissible in the light of the decision of this Court in Raphy John v. Land Revenue Commissioner. [2022 (3) KLT 679:2022 KHC 3494]. The High Court directed the District Collector to consider whether the subject lands fall within the assigned/patta land and whether mining activity can be permitted in the subject lands in the light of the said decision. A true copy of the said judgment in W.P. (C) No. 11400 of 2019, dated 31-03-2023 is produced herewith and marked as **Annexure.R.8 (A)**.

4. It seems that this O.A. has been filed anticipating that the said writ petition will be dismissed. Since the issues raised are same it is prayed that this O.A be dismissed. A Report has been filed by the Environmental Engineer, Kerala State Pollution Control Board, Palakkad in the said case. No complaint has been received against this respondent to them. They inspected the quarry on 4-3-2023 It has been found that this respondent has stopped the crusher and only doing quarrying operations. No specific threats have been discovered. The High Court has accepted the contentions raised and passed the judgment without interfering with the issue.
5. There is no threat to the property of the applicant as alleged by the applicant. The property of the applicant is on upper level from the land where quarry operations are carried out. There are several lands between the applicant's land and others and none of them have raised any complaint for the reason that they are not affected by any quarrying operations. The quarrying operations are being carried out in sustainable manner without affecting the environment of the area.



For BLUE CHIPS MINES AND INDUSTRIES

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Managing Partner

6. The quarrying lease was granted by the Government of Kerala as per Order dated 31-01-2009. It is respectfully submitted that this respondent has entered into a lease agreement with the Government of Kerala on 26-08-2011 to quarry from the 1.6100 hectares of land. The lease is for 12 years and will expire on 25-08-2023. It is issued subject to the conditions imposed under the Kerala Minor Mineral Concession Rules, 1961. The Kerala State Pollution Control Board has also granted consent to operate the unit and it was finally renewed on 25-08-2018 and will lapse on 25-08-2023. The *Chalavara* Grama Panchayat has granted license for doing license and it was renewed from time to time till 31-03-2023 and was renewed up to 31-07-2023.
7. The property of the applicant (petitioner as he stated) is 500 meters away from the property of quarrying site of the 8<sup>th</sup> respondent. EC was not made mandatory at the relevant time. No water course has been damaged as alleged. The agricultural operation is being carried out without any problem. Some photographs of the applicant's property taken on 06-02-2023 and 09-02-2023, is produced herewith and marked as Annexure.R.8 (B) for identification. It is clearly discernible from the same that there are no damages to the said land on account of any quarrying operations to the applicant or any other persons in the nearby area. No damage to the ecology has been caused. This 8<sup>th</sup> respondent was carrying out quarrying in a sustainable manner without causing any harm to the ecology.



For BLUE CHIPS MINES AND INDUSTRIES

THOMAS BABU  
Managing Partner

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8. None of the grounds are valid and sustainable. The applicant is not entitled to get the reliefs. The O.A. is to be dismissed with compensatory costs to this 8<sup>th</sup> respondent.



For BLUE CHIPS MINES AND INDUSTRIES

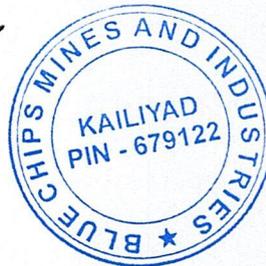
*[Signature]*  
THOMAS BABU  
Managing Partner

VERIFICATION

I, Thomas Babu, aged 48 years, son of T.Baburaj, Managing Partner, Blue Chips Mines & Industries, Vembelathpadam, Kailiyad.P.O. Shornur, Palakkad-679 122 do hereby declare that what is stated in paragraph 1 to 8 is true and correct to the best of my knowledge, information and belief.

Dated this the 25<sup>th</sup> April, 2023.

*[Signature]*  
Counsel for the 8<sup>th</sup> respondent



For BLUE CHIPS MINES AND INDUSTRIES

*[Signature]*  
THOMAS BABU  
Managing Partner

8<sup>th</sup> respondent

ANNEXURE-R8(A)

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

FRIDAY, THE 31<sup>ST</sup> DAY OF MARCH 2023 / 10TH CHAITHRA, 1945

WP(C) NO. 11400 OF 2020

PETITIONER:

PARISTHITHI SAMRAKSHANA SAMITHY  
REGISTRATION NO. TVM/TC/651/2017, HEAD OFFICE,  
ANJILIVELIL BUILDING, OPPOSITE LEKSHORE HOSPITAL,  
ROOM NO. 1(17/601, A1)NETTOOR P.O., NH BYPASS,  
ERNAKULAM DISTRICT, KERALA 682 040, REPRESENTED BY  
ITS STATE PRESIDENT K.N. PRADEEP.

BY ADV N.BIJA KRISHNA

RESPONDENTS:

- 1 DISTRICT COLLECTOR,  
CIVIL STATION, PALAKKAD, PIN 678 013.
- 2 THE DISTRICT OFFICER,  
DISTRICT OFFICE, DEPARTMENT OF MINING AND GEOLOGY,  
PALAKKAD 14.
- 3 THE DIRECTOR,  
DIRECTORATE OF MINING AND GEOLOGY, KEASAVADASAPURAM,  
PATTOM PALACE P.O., THIRUVANANTHAPURAM 695 004.
- 4 STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,  
PALLIMUKKU, PETTA, THIRUVANANTHAPURAM 695 024,  
REPRESENTED BY ITS CHAIRMAN.
- 5 THE ENVIROMENTAL ENGINEER,  
POLLUTION CONTROL BOARD, DISTRICT OFFICE, PALAKKAD  
678 001.
- 6 THE VILLAGE OFFICER,  
CHALAVARA VILLAGE OFFICE, OTTAPPALAM, PALAKKAD 679  
505.
- 7 THE VILLAGE OFFICER,  
VANIYAMKULAM 1 VILLAGE OFFICE, OTTAPPALAM,  
PALAKKAD 679 522.
- 8 THE SECRETARY,  
CHALAVARA GRAMA PANCHAYAT, OTTAPPALAM, PALAKKAD 679  
505.
- 9 M/S. BLUE CHIP MINES AND INDSUTRIES,  
VEMBALATHUPADAM,  
KAYILAAD P.O., OTTAPPALAM, PALAKKAD 679 122,  
REPRESENTED BY ITS MANAGING DIRECTOR.

W.P(C)No.11400/2020

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ANNEXURE-R8(A)(2)

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10 M/S. KALPAKA METAL CRUSHER,  
KAYILAAD P.O., OTTAPPALAM, PALAKKAD 679 122,  
REPRESENTED BY ITS MANAGING DIRECTOR.  
BY ADVS.  
SRI.SURIN GEORGE IPE  
SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL  
BOARD,  
SRI.SANTHEEP ANKARATH  
SRI.K.S.HARIHARAPUTHRAN  
SRI.JOBI JOSE KONDODY-R10  
SMT.BHANU THILAK  
SRI.V.R.RAJESH  
SRI.RAAJESH S.SUBRAHMANIAN  
SRI.K.P.HARISH, SENIOR G.P  
SRI.P.B.SAHASRANAMAN (K/121/1984) -R9  
SRI.  
T.S.HARIKUMAR (K/782/1989)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
31.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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ANNEXURE-R8(A)(3)

**JUDGMENT**Murali Purushothaman, J.

Petitioner, a registered Society under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, is aggrieved by the inaction on the part of the District Collector, Palakkad and the Secretary, Chalavara Grama Panchayat, respondents 1 and 8, against the dangerous quarrying activities which threaten the lives of the public, carried out by M/s Blue Chip Mines and Industries, Palakkad, the 9<sup>th</sup> respondent, in 01.6100 hectares of the leased land comprised in R. Sy. 168/11A of Chalavara Village in Ottappalam Taluk and M/s Kalpaka Metal Crusher, Palakkad, the 10<sup>th</sup> respondent, in 0.9707 hectares of the leased land comprised in R. Sy. 1/7 of Vaniyamkulam-1 Village in Ottappalam Taluk, Palakkad District.

2. Petitioner has submitted that due to the irresponsible mining carried out by respondents 9 and 10 in the above lands, the public living in the surrounding areas are frightened of their lives as there occurred a landslide and debris flow in 2019 flood just 40 meters away from the said quarries. Illicit mining by respondents 9 and 10 is causing destruction to the ecosystem and danger to human lives. Though the petitioner submitted

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ANNEXURE-R8(A)(4)

Exts. P10 and P12 representations to the District Collector, Palakkad and the State Level Environment Impact Assessment Authority, Thiruvananthapuram, respondents 1 and 4, to assess the environmental impact due to the mining, the same were left unheeded.

3. Being aggrieved, petitioner has preferred the instant writ petition, for the following reliefs:-

“(i) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents 1 to 8 to take immediate action to stop mining in 01.6100 hectares of land comprised in R. Sy. 168/11 and in 0.9707 hectares of the land comprised in R. Sy. 1/7 encroached by the 9<sup>th</sup> and 10<sup>th</sup> respondents;

(ii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents 1 to 8 to take appropriate action to terminate the license issued by the various department to carry out the mining and to stop the mining in order to safe guard the lives of the public as well as to avoid a calamity in Chavalavara and Vaniyamkulam-1 Villages in Ottappalam Taluk;

(iii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1<sup>st</sup> respondent to initiate proceedings against the 9<sup>th</sup> and 10<sup>th</sup> respondents to stop mining which violate the Right to Life peacefully without fear as of the Article 21 of Constitution of India guaranteed;

(iv) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 8<sup>th</sup> respondent to initiate

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ANNEXURE-R8(A)(5)

proceedings against the 9<sup>th</sup> and 10<sup>th</sup> respondents under the provisions of Kerala Panchayath Raj Act;

(v) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents 1 to 8 to take swift action to void calamity that threatens the lives of the public to protect the Right to Life guaranteed under the Constitution of India.

4. Narrating the entire facts of the case, a detailed statement dated 09.06.2022 has been filed on behalf of the District Officer, Department of Mining and Geology, Palakkad, the 2<sup>nd</sup> respondent, wherein it is stated that a quarrying lease was granted to 9<sup>th</sup> respondent to quarry Granite Building Stone over an area of 1.6100 hectares of patta land owned by Sri. Baburaj, Managing Partner, M/s. Blue Chips Mines & Industries, comprised in Survey No. 168/11A of Chalavara Village, Ottappalam Taluk, Palakkad District, for 12 years from the date of execution of the Quarrying Lease Deed under the Kerala Minor Mineral Concession Rules, 1967, by the Director of Mining & Geology, Thiruvananthapuram, vide order No. 668/2008-09/7814/M3/08 dated 31.01.2009. A Quarrying Lease Deed was executed on 26.08.2011 for 12 years commencing from the said date to 25.08.2023 and got registered on 13.10.2011 vide document No. 5058 of Sub Registrar, Cherpulassery.

5. It is stated that on the basis of the above quarrying lease, the firm

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ANNEXURE-R8(A)(6)

obtained D&O license from Chalavara Grama Panchayat, consent from Kerala State Pollution Control Board and Explosive license from Petroleum & Safety Organization (PESO), Ernakulam, for using explosives in the above quarrying lease area. Moreover, the Director of Mining & Geology, Thiruvananthapuram, issued registration under Registered Metal Crusher Unit to the crusher unit situated in Re. Survey No. 390/1,2 of Chalavara Village, Ottappalam Taluk, for the financial year 2019-20. On the basis of the quarrying lease and other statutory licenses, the 2<sup>nd</sup> respondent issued movement permit to the 9<sup>th</sup> respondent for extracting and removing Granite Building Stone for the financial year 2019-20.

6. It is further stated that the Secretary, Chalavara Grama Panchayat, vide letter Nos. A2/3848/19 dated 29.08.2019 and A2-3847/2019 dated 05.09.2019, informed the 2<sup>nd</sup> respondent's office that due to heavy rainfall, a landslide was occurred on 09.08.2019 near the quarry damaging the agricultural land and buildings and that a rock piece inside the quarry was slipped down during heavy rain on 28.08.2019 posing threat to the life of neighboring people and requested to inspect and stop working of the quarry. On the basis of the above letters, the 2<sup>nd</sup> respondent's office inspected the quarry area and noticed that a debris flow was occurred 40

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ANNEXURE-R8(A)(7)

meters away from the western boundary of the quarry and that on the eastern part of quarrying lease area, weathered rock pieces had been fallen above the excavator due to heavy rain. No causality had been reported. The inspection report was forwarded to the Director of Mining & Geology, Thiruvananthapuram for further action, on 28.09.2019. The Director of Mining & Geology forwarded a report of the State Disaster Management to the 2<sup>nd</sup> respondent regarding the landslide in the Vembalathupadam in Chalavara Village, vide letter No. 9177/M3/2019 dated 05.10.2019 and directed to verify the report and take further action.

7. It is also stated that the Department of Mining and Geology verified the scientific report submitted by the team constituted by the State Disaster Management Authority and found that they have not mentioned any link of quarrying operations which act as a triggering mechanism for landslides in the above area. In this context, the 2<sup>nd</sup> respondent informed the Secretary, Chalavara Grama Panchayat regarding the report of the State Disaster Management and requested to take further action, vide letter No. DOP/2049/2019/A1 dated 17.10.2019. The stop memo issued to the 9<sup>th</sup> respondent was withdrawn by the Secretary, Chalavara Grama Panchayat, vide Order No.A2/1419/18 dated 30.11.2020. The above order was submitted by the 9<sup>th</sup> respondent to the office of the 2<sup>nd</sup> respondent

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ANNEXURE-R8(A)(8)

through email dated 02.12.2020. Since the 9<sup>th</sup> respondent's quarry is having all statutory licenses, the Director of Mining and Geology, Thiruvananthapuram, issued registration under registered metal crusher unit to 9<sup>th</sup> respondent's crusher unit situated in R.Sy No.390/1, 2 of Chalavara Village, Ottappalam Taluk, for the period from 30.12.2020 to 31.03.2021. The above registration was renewed for the financial year 2021-22 vide registration No.83/2021-22/RMCU/PKD/4169/M3/2021 dated 29.03.2021 for the period from 01.04.2021 to 31.03.2022 and the 2<sup>nd</sup> respondent issued movement permit to the 9<sup>th</sup> respondent for extraction and removal of granite building stone upto 31.03.2022.

8. That apart, the 2<sup>nd</sup> respondent has stated that a quarrying permit, valid up to 31.03.2020, was granted to the 10<sup>th</sup> respondent to quarry 1,18,467 metric tonnes of Granite Building Stone over an area of 97.07 Ares comprised in Survey No. 1/7 of Vaniyamkulam-I Village of Ottappalam Taluk, Palakkad District, vide QP. No. 12/2019-20/GBS/DOP/765/2019/A1 dated 09.04.2019. The above quarry had obtained Environmental Clearance No. DIA/KL/PL/38/2017 dated 05.03.2018 from District Environment Impact Assessment Authority, Palakkad, consent from Kerala Pollution Control Board, D&O License from Secretary, Vaniyamkulam Grama Panchayat and Explosive License

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ANNEXURE-R8(A)(9)

from Petroleum & Explosives Safety Organization (PESO), Ernakulam, for using explosives in the above quarrying permit area. The above quarrying permit was renewed on 11.05.2020 for extracting 60,000 metric tonnes of Granite Building Stone vide proceedings No. 11/2020-21/GBS/DOP/491/2020/A1 and is valid up to 10.05.2021. The quarrying permit was renewed by the 2<sup>nd</sup> respondent on 06.12.2021 for extracting 60225 MT of granite building stone vide proceedings No.18/2021-22/GBS/Dop/2361/2021/A1 and is valid up to 05.12.2022.

9. It is further stated that, Ext. P2 representation submitted by the petitioner before the 3<sup>rd</sup> respondent, the Director of Mining & Geology, Thiruvananthapuram, was forwarded to the 2<sup>nd</sup> respondent, for further action. Petitioner also submitted Exts. P5 and P7 representations before the 2<sup>nd</sup> respondent. On the basis of Ext. P2 representation, the 2<sup>nd</sup> respondent's office inspected the 10<sup>th</sup> respondent's quarry and noticed some irregularities in the working of the quarry. The 2<sup>nd</sup> respondent issued notice No. DOP/2124/2019/A1 dated 20.09.2019 to 10<sup>th</sup> respondent as per Rule 68 of Kerala Minor Mineral Concession Rules, 2015 for restoring the conditions as per the mining plan. The 10<sup>th</sup> respondent restored the conditions and informed the 2<sup>nd</sup> respondent vide letter dated 11.10.2019 and based on the above letter, the 2<sup>nd</sup> respondent allowed the 10<sup>th</sup>

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ANNEXURE-R8(A)(10)

respondent to continue the mining activity in the above area. It is also stated that the 2<sup>nd</sup> respondent took necessary action on the petitioner's complaint and sent a reply to the petitioner on 02.11.2019 vide letter No. DOP/2124/2019/A1.

10. A counter affidavit dated 04.02.2023 has been filed by the Managing Director, Blue Chip Mines & Industries, Palakkad, the 9<sup>th</sup> respondent, denying the allegation that the 9<sup>th</sup> respondent is engaged in the act of mining more than what is permitted, and contended that the 9<sup>th</sup> respondent has not indulged in any excessive mining and there is no threat to the general public as alleged by the petitioner. It is stated that the petitioner organisation which is in Ernakulam has not visited the quarry at Palakkad district or met the people in the locality and the allegation that illicit mining creates fear in the mind of the people is incorrect and there is no such complaint from the local people.

11. Relying on Ext.R9(c) certificate issued by the Village Officer, Chalavara, it is contended that the quarrying is done in the lands registered in the name of the 9<sup>th</sup> respondent which are not part of any forest land. These lands are not assigned for any agricultural activities and there is no tribal settlement within 500 meters around the site. It is also stated

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ANNEXURE-R8(A)(11)

that the 9<sup>th</sup> respondent has not violated any of the conditions imposed by the authorities and has not caused any pollution in the area.

12. The 10<sup>th</sup> respondent, has filed a counter affidavit dated 14.07.2020 in the writ petition. Referring to the decision in **State of Uttaranchal v. Balwant Singh Chaufal and Others [(2010) 3 SCC 402]**, wherein the Hon'ble Apex Court has imposed certain guidelines in streamlining and admitting public interest writ petitions, the 10<sup>th</sup> respondent contended that the writ petition is not maintainable.

13. It is further stated that none of the residents in the locality raised grievance against the operation of the crusher as well as the quarry which are being operated on the strength of all valid licenses and the complaints were made only by the petitioner organization themselves. Till date, none of the statutory authorities, who had issued the licenses, had initiated action against the 10<sup>th</sup> respondent alleging violation of any license conditions.

14. As directed by this Court on 25.01.2023, the Environmental Engineer, Kerala State Pollution Control Board, the 5<sup>th</sup> respondent, has filed a report dated 06.02.2023 in the writ petition. Relevant paragraphs of the same are reproduced:-

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“3. It is submitted that the two Industrial Units mentioned in the Writ Petition are Blue Chips Mines and Kalpaka Metal Crushers. Both of these industrial units are crusher units attached with quarries in the same name. The allegations in the Petition are that the crushers and quarries are operating flouting the norms and that the statutory clearances given to these quarries are illegal.

4. It is submitted that both these Industrial units are having valid Consent to Operate. Kalpaka Metal Crushers has Consent to Operate for 675 HP total machinery to produce 500 metric tonnes per day of various aggregates and sand, which is valid up to 31.03.2025. The quarry of Kalpaka Metal Crushers has Consent to Operate valid up to 28.02.2023. The quarry has been given Consent to Operate based on Environmental Clearance (EC) obtained dated 05.03.2018 and valid up to 05.03.2023.

5. Blue Chips Mines and Industries have Consent to Operate for 635.5 HP crusher machines including accessories which is valid up to 30.06.2023. The quarry of Blue Chips Mines and Industries has Consent to Operate valid up to 31.05.2023.

6. Board has not received any complaint against these two Crushers and Quarries from local residents on the matter of air pollution or water pollution at the time when this Writ Petition was received. After filing the Petition also, the Board has not received any complaints from local residents against these two crushers and quarries on the matter of air and water pollution till date. Hence specific inspection has not been conducted to these two quarries and crushers after receiving the petition. It is submitted that on 04.02.2023, Board officials inspected these two industries. When

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ANNEXURE-R8(A)(13)

Kalpaka Metal Crushers was inspected, it was found that the unit has stopped production. The unit owner explained that the validity of license from Department of Mining & Geology for the quarry had expired in November 2022. So, from that date the quarry has not done any production. Since there was no production in the quarry, the crusher which runs using the boulders brought from the quarry, has also stopped production from that date. Hence, there was no production activities in crusher or quarry during the time of Inspection. So, any evaluation of the pollution control measures or its adequacy could not be conducted during the inspection.

7. On Inspection, it was found that Blue Chips Mines and Industries is currently doing only quarrying. The Crusher of this industry has stopped production. The crusher has been dismantled, the machineries are replaced. The location of the crusher is also falling in the mining area. So, the unit is presently doing their quarrying activities in the location where crusher building stood. During the inspection no specific pollution threats are observed.”

15. Taking on record the statement filed on behalf of the District Officer, Department of Mining and Geology, the 2<sup>nd</sup> respondent and the report of the Environmental Engineer, Kerala State Pollution Control Board, the 5<sup>th</sup> respondent, the remaining question to be addressed is whether mining activity in the subject lands is admissible in the light of the decision of this Court in **Raphy John v. Land Revenue Commissioner [2022 (3) KLT 679:2022 KHC 3494]**. In the said decision, this Court has

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ANNEXURE-R8(A)(14)

considered the question as to whether quarrying activities are permissible on land assigned for cultivation and the power of the District Collector/Tahsildar to cancel the orders of assignment/patta, if the rules and conditions in the order of assignment are violated .

16. It is contended by the 9<sup>th</sup> respondent that the quarrying is done in the land which has been registered in his name and is not assigned for any agricultural activities and not part of any forest land. He has produced Ext.R9(c) certificate of the Village Officer, Chalavara, to the said effect.

17. The 10<sup>th</sup> respondent has contended that he is carrying out quarrying operations in his own land and not in any government puramboke land and the land is not assigned to him by the Government under the provisions of the Kerala Land Assignment Rules.

We are of the view that the question as to whether the subject lands fall within assigned/patta land and whether mining activity is permissible in the subject lands in the light of the decision in **Raphy John** (supra) has to be decided by the District Collector. Accordingly, there will be a direction to the 1<sup>st</sup> respondent, District Collector, to consider whether the subject lands fall within the assigned/patta land and whether mining activity can be permitted in the subject lands in the light of the decision in

W.P(C)No.11400/2020

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ANNEXURE-R8(A)(15)

**Raphy John** (supra), with notice to the petitioner and respondents 9 and 10. Orders in this regard shall be passed within a period of three months from the date of receipt of a certified copy of this judgment.

Writ petition is disposed of accordingly.

Sd/-

**S. MANIKUMAR  
CHIEF JUSTICE**

Sd/-

**MURALI PURUSHOTHAMAN  
JUDGE**

spc/

W.P(C)No.11400/2020

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ANNEXURE-R8(A)(16)

APPENDIX

## PETITIONER'S EXHIBITS:

- EXHIBIT P1 THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 8TH RESPONDENT DATED 19.08.2019 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P2 THE TRUE COPY OF THE REPRESENTATION BEFORE THE 3RD RESPONDENT DATED 30.08.2019 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P3 THE TRUE COPY OF THE REPRESENTATION BEFORE THE 3RD RESPONDENT DATED 30.08.2019 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P4 TRUE COPY OF INFORMATION OBTAINED FROM THE 8TH RESPONDENT UNDER THE PROVISIONS OF RIGHT TO INFORMATION ACT DATED 03.09.2019 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P5 THE TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE 2ND RESPONDENT DATED 09.10.2019 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P6 THE RECEIPT ISSUED BY THE 2ND RESPONDENT WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P7 THE TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE 3RD RESPONDENT DATED 09.10.2019 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P8 THE RECEIPT ISSUED BY THE 2ND RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P9 THE TRUE COPY OF INFORMATION OBTAINED FROM 2ND RESPONDENT UNDER RIGHT TO INFORMATION ACT DATED 02.11.2019 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P10 THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 1ST RESPONDENT DATED 15.05.2020 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P11 THE REGISTERED POST BILL RECEIPT ISSUED BY THE POSTAL DEPARTMENT.
- EXHIBIT P12 THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 4TH RESPONDENT DATED 15.05.2020 ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P13 THE TRUE COPY REGISTERED POST BILL RECEIPT ISSUED BY THE POSTAL DEPARTMENT.
- EXHIBIT P14 THE TRUE COPY OF THE STOP MEMO ISSUED TO THE 9TH RESPONDENT BY THE 8TH RESPONDENT

## RESPONDENTS' EXHIBITS:

- Annexure R2(a) True copy of the letter No.A2/3848/19 dated 29.08.2019

W.P(C)No.11400/2020

:17:

ANNEXURE-R8(A)(17)

21

- Annexure R2 (b) True copy of the letter No.A2-3847/2019, dated 05.09.2019.
- Annexure R2 (c) True copy of the report of the State Disaster Management.
- Annexure R2 (d) True copy of the letter No.9177/M3/2019, dated 05.10.2019.
- Annexure R2 (e) True copy of the letter No.DOP/2049/2019/A1, dated 17.10.2019.
- Annexure R2 (f) True copy of the No.A2/1419/18 dated 30.11.2020.
- Annexure R2 (g) True copy of the notice No.DOP/2124/2019/A1 dated 20.09.2019.
- Annexure R2 (h) True copy of the letter dated 11.10.2019
- Annexure R2 (i) True copy of the letter No.DOP/2124/2019/A1 dated 02.11.2019
- Exhibit R9 (a) A true Copy of Government Order No.668/2008- 09/7814/M3/08 dated 31.01.2009.
- Exhibit R9 (b) A true Copy of Consent to Operate renewal letter PCB/PLKD/ICO/R1/244/2018 dated 30.05.2018
- Exhibit R9 (c) A True Copy of Certificate No.29/2023 issued by the village officer Chalavara dated 30.01.2023 with English translation.
- Annexure R5 (a) True copy of the Consent to Operate, File No. PCB/PLKD/ICO/O17PAL4991259/2020, dated 13-3-2020 issued by the Pollution Control Board.
- Annexure R5 (b) True copy of the Consent to Operate, File No. PCB/PLKD/IC/CO-188/2007, dated 12-3-2018 issued by the Pollution Control Board.
- Annexure R5 (c) True copy of the Environmental Clearance, EC No. DIA/KL/PL/38/2017, dated 5-3-2018 issued by the District Environment Impact Assessment Authority, Palakkad, to the Quarry.
- Annexure R5 (d) True copy of the Consent to Operate, File No. PCB/PLKD/IC/CO-9/2007, dated 19-5-2018 issued by the Pollution Control Board.
- Annexure R5 (e) True copy of the Consent to Operate, File No. PCB/PLKD/IC/CO-9/2007, dated 25-5-2018 issued by the Pollution Control Board.
- Exhibit R10 (a) A true copy of the amendment brought out to the Kerala High Court Rules, 1971 published in the Kerala Gazette dated 03.02.2015.

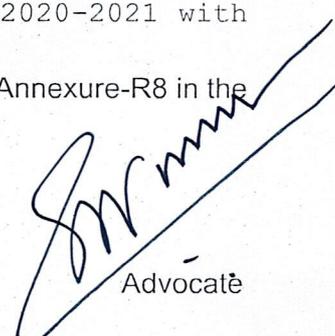
W.P(C)No.11400/2020

:18:

ANNEXURE-R8(A)(18)

- Exhibit R10 (b) A true copy of the certificate dated 17.10.2014 issued by the petitioner organization to the unit of the 10<sup>th</sup> respondent with English Translation.
- Exhibit R10 (c) A true copy of the Environment Clearance issued by the District Environment Impact Assessment Authority, Palakkad, dated 05.03.2018.
- Exhibit R10 (d) A true copy of the quarrying permit dated 11.05.2020 issued to the 10<sup>th</sup> respondent by the second respondent under the provisions of the Kerala Minor Mineral Concession Rules, 2015.
- Exhibit R10 (e) A true copy of the integrated consent to operate-renewal issued by the Kerala State Pollution Control Board on 12.03.2018 having validity upto 28.02.2023 for operating the quarry of the 10<sup>th</sup> respondent covered vide Exhibit R10 (c)
- Exhibit R10 (f) A true copy of the trade license DT.24.02.2020 issued by the Vaniyamkulam Grama Panchayat under section 232 of the Kerala Panchayat Raj Act, 1994 for the financial year 2020-2021 for operating the quarry of the 10<sup>th</sup> respondent with English Translation.
- Exhibit R10 (g) A true copy of the Form LE-3 license issued by the Joint Chief Controller of Explosives, South Circle, Chennai for stocking and using explosives for the quarry of the 10<sup>th</sup> respondent dated 17.07.2010 which had validity upto 31.03.2015 renewed and extended upto 31.03.2024.
- Exhibit R10 (h) A true copy of the integrated consent to operate-renewal dated 13.03.2020 having validity upto 31.03.2025 issued by the Kerala State Pollution Control Board for operating crusher unit of the 10<sup>th</sup> respondent
- Exhibit R10 (i) A true copy of the trade license issued by the 8<sup>th</sup> respondent to 10<sup>th</sup> respondent unit dated 15.06.2020 for operating crusher unit for the financial year 2020-2021 with English Translation.

This is the true copy of the document referred to and marked as Annexure-R8 in the Reply Statement.



Advocate



6 February 2023 4:53 pm

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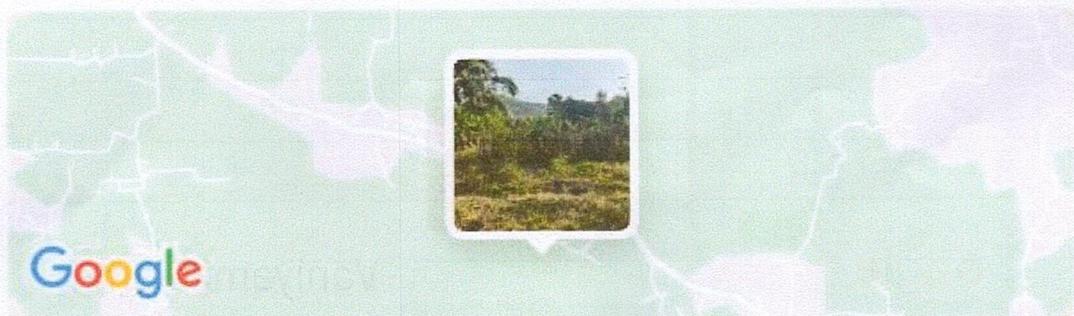
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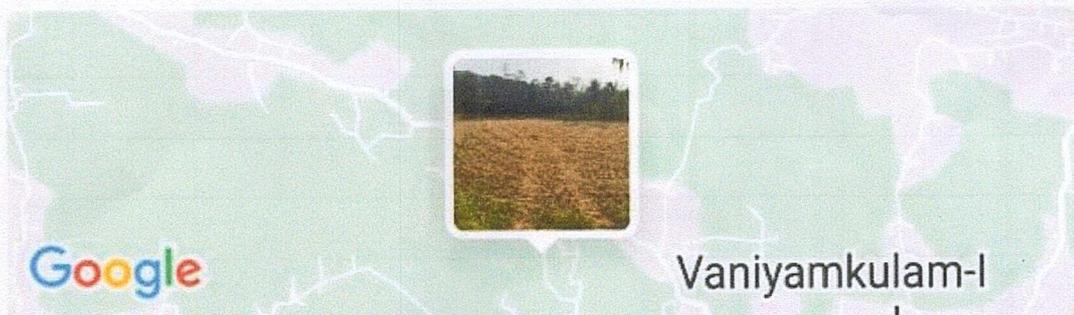
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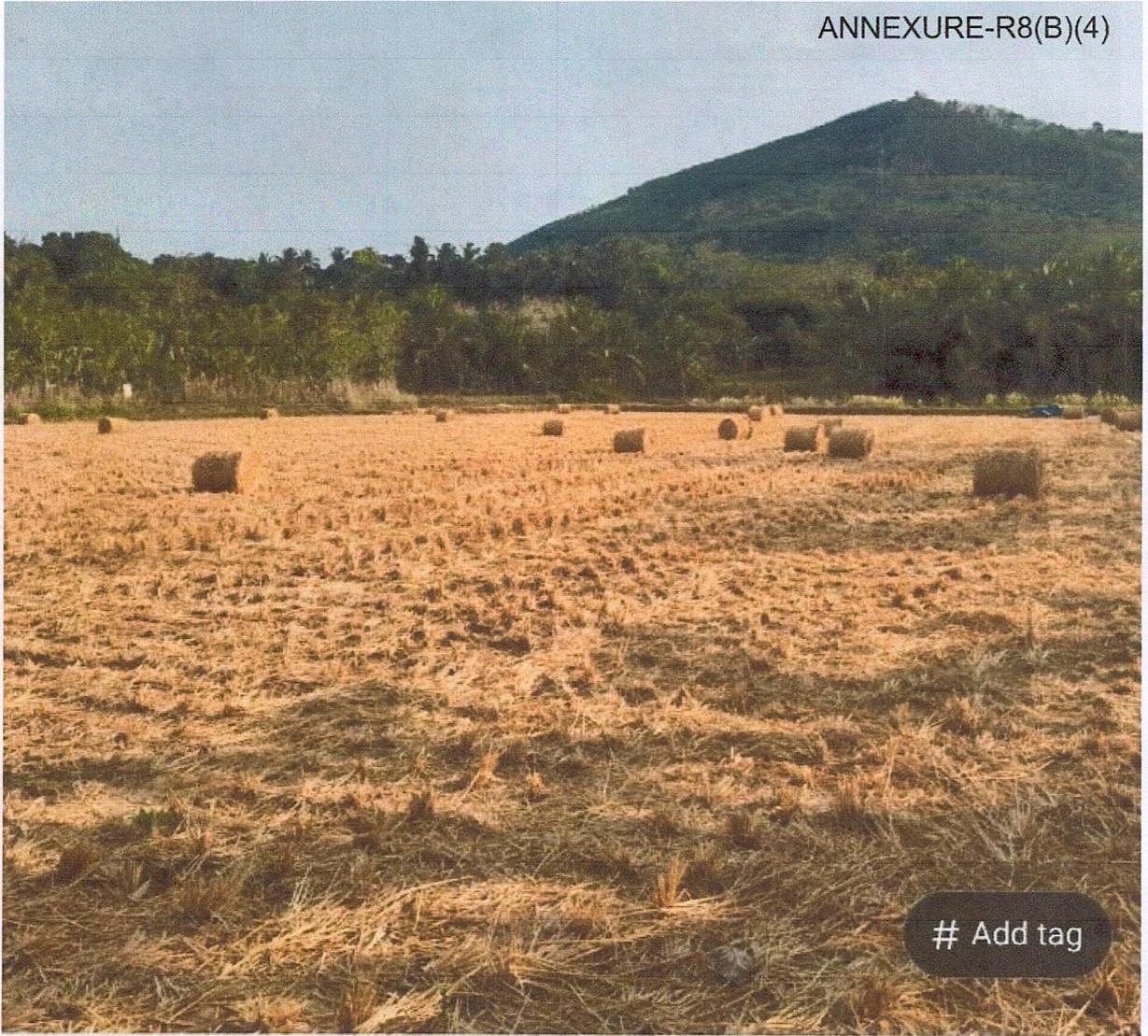
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6 February 2023 4:47 pm

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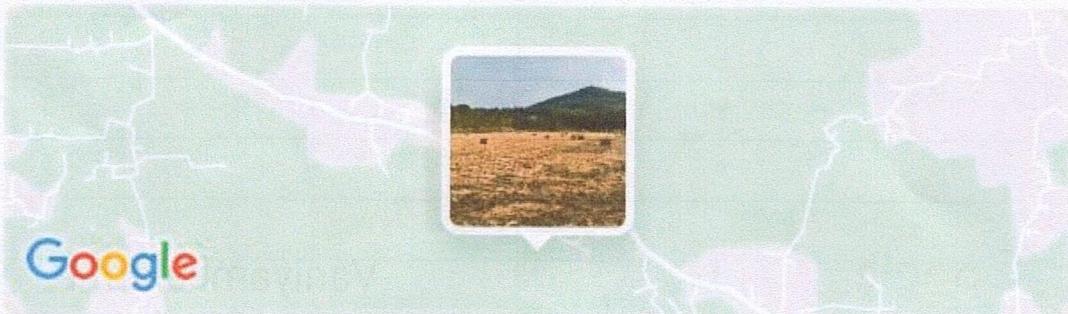
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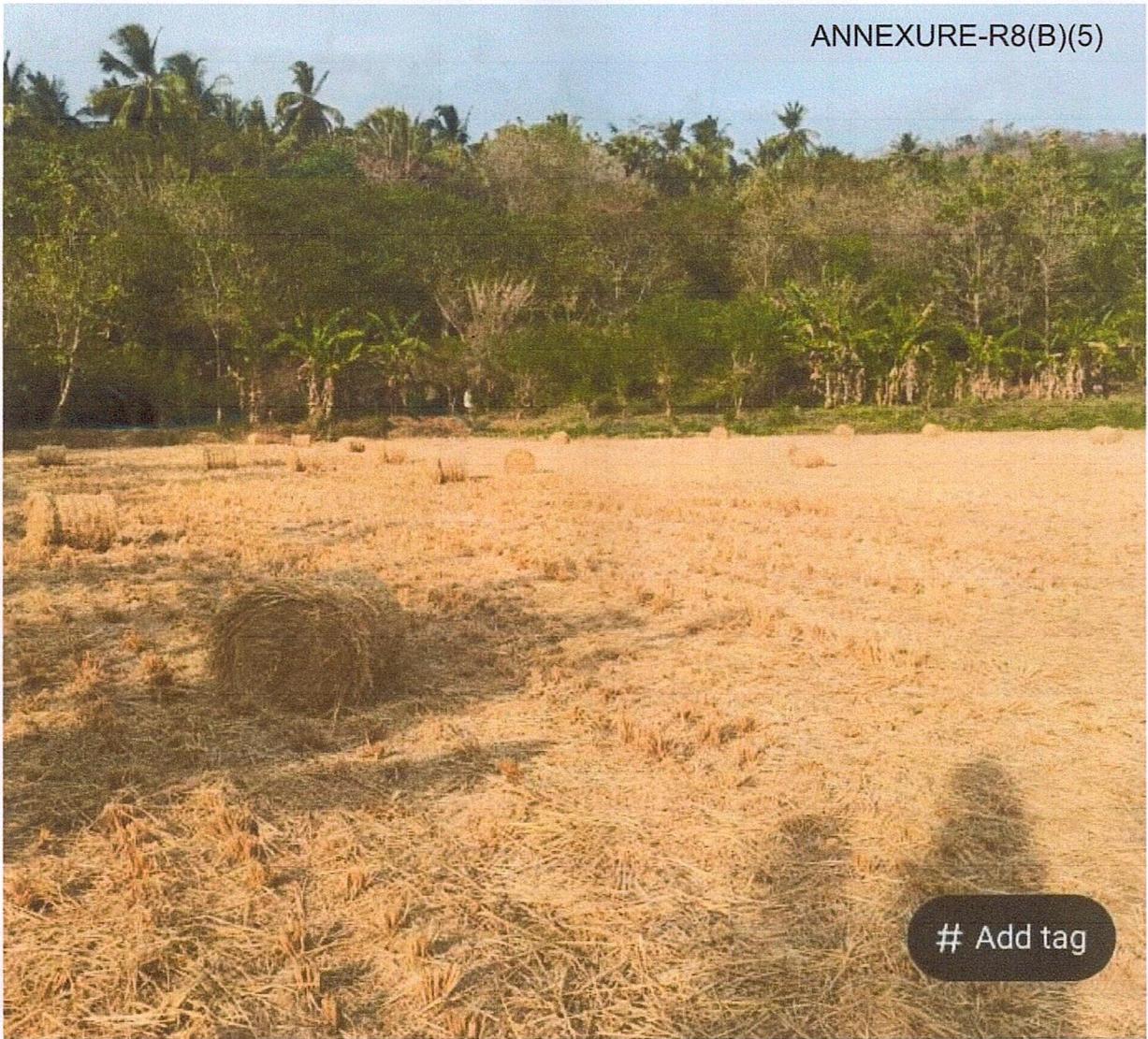
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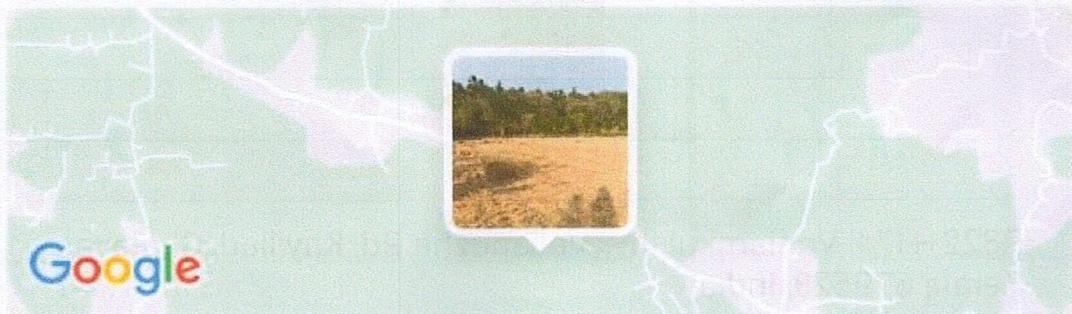
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Kerala 679523, India

This is the true copy of the document rereferred to and marked as Annexure-r8(b) in the Reply Statement.

More Sites

*[Handwritten Signature]*  
Advocate

