

Pre.on. 14/6/2023

**BEFORE THE HONOURABLE
NATIONAL GREEN TRIBUNAL
SOUTHERN ZONAL BENCH,
CHENNAI**

O.A. No. 26 /2023

Applicant : Muhammed O

Vs.

Respondents : Morayoor Granites
Pvt. Ltd & 5 Others :

**REPLY AFFIDAVIT SUBMITTED ON
BEHALF OF THE RESPONDENTS
1 & 2 TO THE ORIGINAL APPLICATION**

**PHILIP J. VETTICKATTU
SAJITHA GEORGE &
NEENU BERNATH**

COUNSEL FOR THE RESPONDENTS 1 & 2

**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONAL BENCH, CHENNAI**

O.A. No. 26 OF 2023

Applicant:

Muhammed O, aged 61 years,
S/o. Alavi,
Taj Manzil, Morayoor Amsom,
Arimbra Desom, Arimbra Post,
Kondotty Taluk, Malappuram – 676 304.

Vs...

Respondents :

1. Morayoor Granites Pvt. Ltd,
Represented by its Director, Ummer Kutty
Mucheth House, Elambra Nellikuzhy,
Ernakulam – 686691.
2. Ummer Kutty. K.
Director,
Morayoor Granites Pvt. Ltd,
Represented by its Director, Ummer Kutty
Mucheth House, Elambra Nellikuzhy,
Ernakulam – 686691.
3. Kodithody Hamza, aged 62 years,
S/o. Avaran, Kodithody House,
Morayoor Amsom, Arimbra Desom,
Arimbra Post, Kondotty Taluk,
Malappuram – 677 304.
4. The Superintendent of Police,
District Police Office, Malappuram – 676505
smpm.pol@kerala.gov.in / 0483-2734377.
5. The Chief Engineer – Roads
Public Works Department, Government of Kerala,
Thiruvananthapuram – 695033
ceroads.pwd@kerala.gov.in / 0471-2322346



6. The State Environment Impact
Assessment Authority -Kerala
Rep by its secretary
Thapanoor,
Thiruvananthapuram - 695 001
seacseiaakerala@gmail.com / 0471-2334262.

I N D E X

Sl.No.	Particulars	Page Nos.
1.	Reply Affidavit on behalf of Respondents 1 & 2	1-7
2.	<u>Annexure R1 (a)</u> : Photographs showing the quarry site.	8-11
3.	Proof of service	12-13

Dated this the 12th day of June, 2023.

**Philip J. Vettickattu,
Counsel for the 3rd Respondent**

**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONAL BENCH, CHENNAI**

O.A. No. 26 OF 2023

Applicant:

Muhammed O, aged 61 years,
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For MORAYOOR GRANITES PVT.LTD.

Managing Director

6. The State Environment Impact Assessment Authority –Kerala
Rep by its secretary
Thapanoor,
Thiruvananthapuram – 695 001
seacseiaakerala@gmail.com / 0471-2334262.

**REPLY AFFIDAVIT SUBMITTED ON BEHALF OF THE RESPONDENTS
1 & 2 IN THE ORIGINAL APPLICATION**

I, Ummerkutty Kalathil, Aged 44 years, S/o. Abdurahiman, residing at Kalathil Mansion, Cheruvannur, Malappuram, do hereby solemnly affirm and state as follows:

1. I am the 2nd respondent in the above Original Application. I know the facts of the case. I am swearing this Reply Affidavit on my own behalf and also on behalf of the 1st respondent as its Director and I am authorized to do so.
2. All the allegations raised in the Original Application, except those that are specifically admitted hereunder are denied by this respondents.
3. The application is not maintainable either in law or on facts. The application is filed in suppression of material facts and also in distortion of the true facts. The application is filed with ulterior motives and as a bargaining in disguise. The application is devoid of any merits and filed without any bonafides. The application is nothing, but an abuse of process.
4. The allegations raised in paragraph Nos.1 to 6 are not fully correct and therefore they are denied. The allegations raised in para 1 that the applicant is a permanent resident of Kondotti Taluk and the Chairman of the Association namely "**Arimbra Mala Samrakshana Samathi**", etc. are not substantiated by any materials and therefore they are denied. The allegation that the Arimbra Hills is one of the highest hills available in Malappuram

For MORAYUR GRANITES PVT.LTD.

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Managing Director



District and independent Mountain Range having its own unique eco system etc. are incorrect, baseless and therefore stoutly denied.

5. The allegations raised in paragraph 3 that the respondents 1 and 2 were trying to start quarrying operations without obtaining Environmental Clearance and other statutory permissions, but by misusing their financial and political clout, are baseless, wrong, unsubstantiated and therefore denied. The allegation that, the 6th respondent has to drop all further proceedings in the matter of appraisal of the project of the 1st and 2nd respondents is incorrect, wrong and unsustainable.

6. The allegation that, even after the order of this Hon'ble Tribunal, dated 24-12-2021, suspending the Environmental Clearance, the respondents 1 and 2 brazenly ignored the same and attempted to carry on quarrying activities by attempting to level the approach road is incorrect, wrong and therefore stoutly denied. The same is raised to mislead this Hon'ble Tribunal. The allegation that the 3rd respondent was set up by respondents 1 and 2 to get permission from the Public Works Department for construction of two entry roads for entry and exit to the project site and for setting up cattle trap, conveniently suppressing the fact that the 3rd respondent had already given possession to this respondents and that the 3rd respondent was acting upon our behest to create an approach road to the quarrying project site, in spite of the fact that the Environmental Clearance stood suspended and that the conduct is in clear violation of the order dated 24-12-2021 and therefore this respondents and 3rd respondent are liable to be punished under section 26 of the NGT Act is absolutely incorrect, wrong, baseless and therefore stoutly denied.

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7. The allegation that this respondents are trying to continue their illegal activities by putting the 3rd respondent in front, while they themselves were pulling the strings from behind and they were doing things which cannot done directly in view of the order of this Hon'ble Tribunal suspending their Environmental Clearance, etc, are absolutely incorrect, wrong and therefore stoutly denied. The allegation that this respondents did not stop their illegal activities fully and have time and again attempted to clear the forest and construct a pathway to the quarry and they have attempted to do so on 9-2-2023 etc. are absolutely wrong incorrect and therefore stoutly denied.

8. The allegations raised in Ground No.A to J are nothing, but repetitions of the allegations raised in the Statement of Facts. The allegations in the Grounds are absolutely unsustainable, baseless and therefore stoutly denied. The allegation that this respondents with the active aid and help of 3rd respondent trying to operate a quarry in the Arimbra Hills in Sy.No.153/2 and 154pt of Morayur Village, Kondotti Taluk, without prior Environmental Clearance is absolutely incorrect, wrong and therefore stoutly denied. It is submitted that, neither the 3rd respondent nor this respondents never attempted to conduct any quarrying operations as alleged by the applicant.

9. The allegation that the project site is not suitable for quarrying on account of thick vegetation etc. is unsustainable, baseless and therefore stoutly denied. The allegation that the locals don't want to live in constant fear of landslides and sinking of hteir houses on account of the subsidence at the project site, the evidence of which is available on the files itself in the inspection report dated 8-4-2019 of the sub committee of SEAC, and if the EC

For MORAYUR GRANITES PVT.LTD.


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is issued another Josimath is created is absolutely baseless, wrong and therefore stoutly denied.

10. The allegation that, the slope angles of the hills predominantly varies between 70 to 85 degrees at the various places in the project site is equally incorrect, and wrong and therefore denied. The allegation that, this respondents had taken on lease large extent of land to an extent of 44 acres is baseless. The allegation that, this respondents have made several illegal attempts to gain entry into the project site to carry on leveling activities after the Environmental Clearance is suspended by the Hon'ble NGT and they are therefore violators of orders passed by this Hon'ble Tribunal and contemnors etc. are absolutely incorrect, wrong and therefore stoutly denied. The allegation that the application is filed within limitation as per Section 14 of the NGT Act, 2010 is incorrect, wrong and therefore stoutly denied. The so called compliant dated 9-2-2023 is falsely filed so as to get over limitation. No such incident as alleged in the complaint have ever taken place. The application is filed beyond limitation and therefore, not maintainable. The applicant is not entitled to get any relief or interim order. The application is liable to be dismissed with exemplary costs.

11. It is submitted that the applicant has approached this Hon'ble Tribunal by not disclosing the material facts, which the applicant is absolutely aware of. The application is absolutely unsustainable for suppression of material facts and distortion of true facts and limitation.

12. It is submitted that, the 3rd respondent has got an extent of 38.25 cents of land comprised under Re.Sy.No.116/9-2 of Morayur Village, Kondotty Taluk, Malappuram District. The said property is sharing its boundary with

For MORAYUR GRANITES PVT.LTD.


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a public road. The public road is at a lower level and therefore, in order to have a smooth access, the 3rd respondent has removed the earth for leveling purpose after obtaining necessary order from the competent authority and also obtaining protection order from the Hon'ble High Court of Kerala, wherein the applicant herein was also a party. The earth was removed and thereafter a drain was constructed and cattle trap was also fixed by obtaining orders from the competent authorities and also by obtaining protection order from the High Court of Kerala. In the second round litigation of police protection, the applicant's son was also arrayed as a respondent.

13. Apart from the above work, no other works were carried out by the 3rd respondent or this respondents. It is submitted that, the site of the quarry, which is covered by Environmental Clearance granted by the competent authority lies almost 500 meters away from the property of the 3rd respondent which comprised under Re.Sy.No.116/9-2. It is submitted that, neither this respondents nor the 3rd respondent have conducted any quarrying operations as alleged by the applicant. Photographs showing the quarry site is produced herewith and marked as **Annexure R1(a)**.

14. The application is filed without any bonafides and for exterior motives. The application is equally bad in law and unsustainable for limitation as well. The applicant was a party to the first round of litigation before the Hon'ble High Court of Kerala and absolutely aware of the second round of litigation before the High Court of Kerala. If at all any application to be filed, the same ought to have been filed within the limitation from the date of judgment of the respective litigations. The present application is filed only to get over the limitation and devoid of any merits. The application itself is absolutely devoid



For MORAYUR GRANITES PVT.LTD.


Managing Director

of any merits and may be dismissed with exemplary costs to this respondents.

The facts stated above are true and correct.

VERIFICATION

I, Ummerkutty Kalathil, aged 44 years, S/o. Abdurahiman, residing at Kalathil Mansion, Cheruvannur, Malapuram, do hereby verify that the contents of the present Reply affidavit are true and correct and no material has been concealed therefrom.

Date: 12-06-2023

Place: Ernakulam



For MORAYUR GRANITES PVT.LTD.



Managing Director

Deponent

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 12th day of June, 2023 in my office at Ernakulam.

A handwritten signature in blue ink, appearing to be "Philip J. Vettickattu".

Philip J. Vettickattu, Advocate



hij

9

$R_1(a)$
2



thij

10

R1(9)3



11

11

Annexam R. (AD)



This is the location of the specimen
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 to the appendix for more details.
 11/27/2024

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