

Presented on: 21st .07.2022

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

ORIGINAL APPLICATION NO. 77 OF 2021 (SZ)

In the matter of

Suo Motro Proceedings initiated based
on a letter received from
Justice A.V.Ramakrishna Pillai,
Former Judge, High Court of Kerala, Chairman,
State Level Monitoring Committee, Kerala : Applicant

Versus

Chief Secretary, Government of Kerala,
Thiruvananthapuram & Ors. : Respondents

**AFFIDAVIT –REPLY NO BEHALF OF THE ADDITIONAL 16TH
RESPONDENT**

**MENON & PAI
ADVOCATES
I.S. PRESS ROAD,
KOCHI- 682 018.
COUNSEL FOR THE 16TH RESPONDENT**

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: Respondents

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Dated this the 21st day of July, 2022.

5. 
Counsel for the 16th Respondent

-1-

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, AT CHENNAI

ORIGINAL APPLICATION NO.77 OF 2021 (SZ)

In the matter of:

Suo Moto Proceedings initiated based on a letter ... Applicant
received from Justice AV Ramakrishna Pillai,
Former Judge, High Court of Kerala, Chairman,
State Level Monitoring Committee, Kerala

Versus

Chief Secretary, Govt. of Kerala, ... Respondents
Thiruvananthapuram & Ors.

AFFIDAVIT-IN-REPLY ON BEHALF OF THE ADDITIONAL 16TH

RESPONDENT

I, Dr. M. Beena I.A.S., Wife of P.Vijayan, aged 48 years, working as Chairperson in Cochin Port Authority (**Additional 16th Respondent**) located at Willingdon Island, Cochin – 682 009, do hereby solemnly affirms and states as under:

1. That I am the Chairperson of Cochin Port Authority ('CoPA/ **Additional 16th Respondent**') (erstwhile Cochin Port Trust), i.e., the Additional Respondent No. 16 in this present matter. I am well conversant with the facts and circumstances of the present case, and competent to swear and depose the present affidavit on behalf of CoPA. I state that the contents of the present affidavit are true and correct to my

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knowledge and belief, based on the records of CoPA maintained in the ordinary course of business.

2. The present affidavit -in-reply is being filed on behalf of CoPA pursuant to the directions of this Hon'ble Tribunal and in reply to the averments contained in the report submitted by Justice AV Ramakrishna Pillai (Former Judge, High Court of Kerala), Chairman, State Level Monitoring Committee, Kerala dated 14.12.2021 ('Report').
3. By way of background, this Hon'ble Tribunal vide its order dated 04.03.2022, took note of the above mentioned Report and directed CoPA to file its independent statement regarding the allegations extracted in the said order. In essence, the allegations referred to by this Hon'ble Tribunal in its order dated 04.03.2022, were that:
 - (a) About five acres of land vested with CoPA got affected due to the unauthorised dumping of non-biodegradable solid waste covering a length of about 200 meters on the bank of backwaters, an area which is ecologically fragile.
 - (b) CoPA had engaged a contractor to deal with the waste deposited in the said area.
 - (c) There is purported violation of Solid Waste Management Rules 2016 and the CRZ Notification 2011 and 2019.
4. At the outset, CoPA denies all the allegations against it in so far as they are contrary to the submission made in the present reply. The present short reply is being filed to

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bring accurate facts on record and CoPA herein fully reserves its right to plead matters of law in its oral arguments. The Additional 16th Respondent also craves leave of this Hon'ble Tribunal to file additional reply/affidavit, if the need so arises.

5. Without prejudice to the above, CoPA submits that area referred to in the Report where waste material was dumped belongs to CoPA. The area in question is portion of the land adjacent to the main highway (part of a 55 acre compound belonging to CoPA), admeasuring approximately 1.2 acres, and was being allotted to various third parties on temporary license basis. The land was reclaimed in 2004-2005. A true copy of the layout as obtained from Google Earth as on 18.05.2022 is enclosed herewith as **Annexure R16(a)**.
6. The area in question was in possession of M/s. Beggora Infrastructure & Developers on the basis of the temporary license granted to it. Thereafter, in 2021, after the temporary licence granted to M/s. Beggora Infrastructure & Developers expired, CoPA decided to allot the area on license basis through open tender.
7. Unfortunately, CoPA did not receive any response and hence the land remained vacant. CoPA is now planning to lease the entire area of about 55 acres for a period of thirty years through open tender.
8. CoPA understands that while steps were taken to tender the area, and after M/s. Beggora Infrastructure & Developers had vacated the area, outsiders began to dump trucks of waste at night without any permission or knowledge of CoPA.

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9. The matter was taken up by the concerned revenue authorities. The Sub-Divisional Magistrate, Fort Kochi issued an Order dated 03.02.2022 directing Cochin Corporation & CoPA to reach an agreement for the removal of the dumped material. A true copy of the order dated 03.02.2022 issued by Sub-Divisional Magistrate, Fort Kochi is enclosed herewith as **Annexure R16(b)**.
10. Following the order of the Sub-Divisional Magistrate, CoPA initiated the proceedings for removal of waste in cooperation with the Corporation of Cochin under whose jurisdiction the area falls. CoPA had a discussion with the Corporation of Cochin and arrived at an understanding that the actual cost of transportation of the material from the dumped area to the Processing plant at Brahmapuram will be borne by the CoPA. Accordingly, Corporation initiated action to remove the waste as per the Solid Waste Management Rules from the area and the work is in progress. A true copy of the letter dated 10.03.2022 sent to Corporation of Cochin by CoPA is enclosed herewith as **Annexure R16(c)**.
11. As part of the remedial measures, CoPA has installed three CCTV cameras for the surveillance of the area spending an amount of Rs. 4.53 lakhs. In addition, CoPA has started fencing in the area to prevent further dumping of waste material at a cost of Rs. 3.41 lakhs. A true copy of photos of the CCTV cameras is enclosed herewith as **Annexure R16(d)**. A true copy of ongoing fencing activities is enclosed herewith as **Annexure R16(e)**.
12. The CoPA also filed a written complaint in the Harbour Police Station, Willingdon Island, Kochi, against unauthorised dumping of waste material in the Port land on

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04.04.2022 requesting an investigation in the matter. A true copy of the compliant submitted by CoPA to Harbour Police Station, Willingdon Island, Kochi, dated 04.04.2022 is enclosed herewith as **Annexure R16(f)**.

13. In respect of the assertions that CoPA's contractors were dealing with waste, it is clarified that CoPA initially created a temporary trench to prevent vehicles and others from dumping the waste. Unfortunately, it was seen that miscreants and others filled up the trenches to move the vehicles. CoPA then gave a work order (Annexure I to the Report) to its contractor for spreading and levelling the heaped earth and dumped waste material as a temporary measure to maintain the area and to avoid any untoward incidents like fire in the waste. Absolutely no attempt has been made by CoPA to bury or hide the material in CoPA land.
14. It is further clarified that the waste has been dumped in an area that is more than 150m away from the nearby backwaters. Therefore, there is absolutely, no possibility of the dumped waste reaching the backwater or polluting it.
15. The portion of CoPA land where the waste was dumped in question is outside the purview of CRZ 2011 and CRZ 2019 notifications, since the location is more than 150m away from the nearby backwaters.
16. Following the steps taken by CoPA, including setting up of CCTV cameras, fencing activities, and filing the police complaint, no further waste has been dumped in the area. Corporation of Cochin is in the process of removing the existing waste

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following the rules stipulated in the Solid Waste Management Rules and CoPA is bearing the cost of transportation.

17. In the light of the above, it is humbly prayed that: -

- a) the application under reply to be disposed; and
- b) this Hon'ble Tribunal pass any other order as it deems fit in the interest of justice.

Solemnly sworn and signed

before me on this 21st day of

July, 2022 at Ernakulam.

Before me Counsel

Date: 21st day of July, 2022

Place: Ernakulam.



B. a.

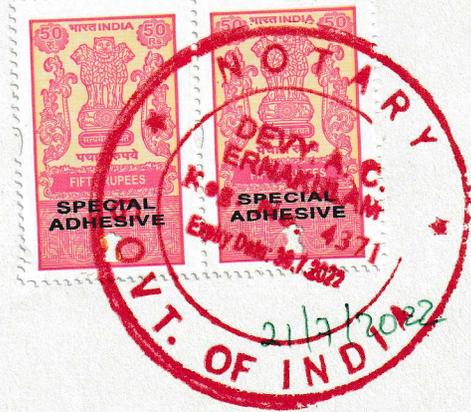
**CHAIRPERSON
COCHIN PORT AUTHORITY**

G. L.

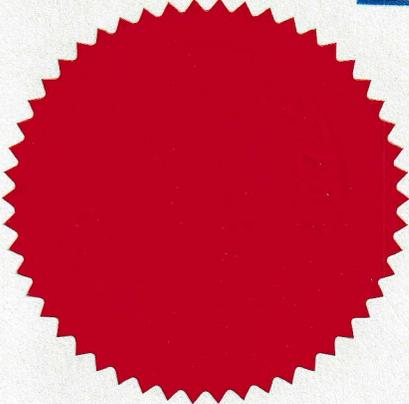
Advocate for 16th Respondent

6/6
16th Respondent

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Annexure B16(a)



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Annexure. R16(a)/2



IN THE COURT OF SUB DIVISIONAL MAGISTRATE FORTKOCHI

FORTKOCHI

(Present: Vishnuraj.P. I A S)

M.C.No - 02/2022

(D - 127/2022)

Absolute Order u/s 138 CrPC



Petitioner :- 1. Advocate Antony Kureethara, councilor division No.1 Kochi Corporation

Respondent :-1) Estate Officer, Cochin Port Trust, Kochi

2) Secretary Kochin corporation, Ernakulam

Advocate. Antony Kureethara, councilor division No.1 Kochi Corporation has filed a petition before this court regarding the waste dumping in the property of respondent 1 which is causing danger and nuisance to the public. The undersigned realized the dangerous situation and a preliminary order u/s 133 Cr.P.C. was issued on 12/01/2022 and show cause why this order should not be enforced and file objection if any

On 31/01/2022, the counter petitioner 1 and health inspector of Thevara circle represented Secretary Kochi corporation appeared for hearing. This court came to the conclusion, that both parties ie, respondents 1 and 2 reach an agreement for shifting the waste dumped near the Parambithara bridge.

ORDER

In the above circumstances the preliminary order issued u/s 133 Cr.P.C. is made absolute u/s 138 Cr.P.C. with a direction to the counter petitioners to remove the dumped waste to a proper place within one month from the date issue of this order.

Dated this the 03th day of the February 2022



Sub Divisional Magistrate

Fort Kochi.

Copy to - 1) Station House Officer Harbour police station, Thopumpady (For service and order to the 1st respondent and also for reporting the execution of the order with served copy)

2) Station House Officer, Ernakulam central police station, (For service and order to the 2nd respondent and also for reporting the execution of the order with served copy)

3) The health inspector, Thevara circle No. 2, Kochi corporation Thevara -for information

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Annexure B16 (C)

Annexure - B16 (C)



COCHIN PORT TRUST
ESTATE DIVISION.
GENERAL ADMINISTRATION DEPARTMENT
WILLINGDON ISLAND, COCHIN- 682 009.

Registered with A/d

No. EM1/Misc/WasteRemoval/2022

Dated: 10.03.2022

To,

The Secretary,
Office of the Corporation of Cochin,
Near Ernakulam Jetty,
Ernakulam

Sir,

Sub: Removal of waste dumped in SER area, W/Island-Reg
Ref: 1) Order dated 03.02.2022 of the Sub Divisional Magistrate, Fort Kochi
2) Meeting held on 17.02.2022

Kind reference is invited to the subject matter and the meeting held on 17.02.2022 with the Secretary, Corporation of Cochin.

In this regard, it is informed that the Competent Authority of Cochin Port Trust has given in-principal approval for bearing the cost of transportation of waste dumped in the Port land to the Brahmapuram plant as suggested by the Cochin Corporation and get the work done through Corporation of Cochin in association with Cochin Port Trust. Actual cost incurred towards transportation of the waste from the site will be reimbursed by the Port in due course.

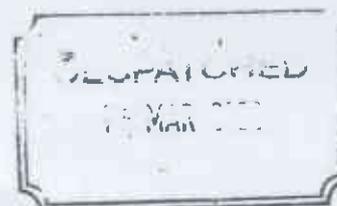
You are requested to make necessary arrangements for shifting the waste dumped in the said area at the earliest in co-ordination with Port.

Yours faithfully,

Secretary

Copy to: The FA & CAO, CoPT
The CE, CoPT
AE(lands), Estate Division
Dy. Commandant, CISF, CPT Unit.

etc



Annexure R16(d)

← || →

Annexure R16(d)



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Annexure-B16(f)

COCHIN PORT AUTHORITY
ESTATE DIVISION,
GENERAL ADMINISTRATION DEPARTMENT
WILLINGDON ISLAND, COCHIN- 682 009.

From

The Dy. CME (Estate),
Estate Division,
General Administration Department,
Cochin Port Authority,
Willingdon Island.

To

The Station House Officer,
Harbor Police Station, Willingdon Island.

Sir,

Sub: Illegal Waste Dumping in the Port Premise-Reg.

The Officials of the Cochin Port while conducting routine inspection had noticed illegal waste dumping in the Port Premises, near (locations). Culprits by ingenious and tricky plans hiding from the authorities has entered into above port premises and dumped waste materials, including rubber, electronic, building, toilet wastes among others, at different times.

It is submitted that the Cochin Port has received an Order of Sub Divisional Magistrate of Fortkochi under section 138 of CrPC dated 03.02.2022, the order has been issued on the complaint received from Adv. Antony Kureethara, Councilor division No. 1, Kochi Corporation regarding the waste dumping in Willingdon Island. The Order directs Cochin Port and the Kochi Corporation to remove the dumped waste to a proper place within one month.

The Port Authority has concurrently initiated the proceedings for the removal of waste in cooperation with Kochi Corporation. The removal of waste to the proper place involves a huge amount of money for the transportation and treatment of waste, and the same is being done in view of the above Order. It is submitted that at present, the Port Authority has installed CCTV cameras in this area to identify the persons who involve in such activities and to avoid further intrusions for the dumping of waste. The installation of the cameras is also expensive, being a waste to the public exchequer.

It is submitted that such illegal dumping of waste is being done in the lands of Cochin Port which is to be leased by inviting public tenders. It is assumed that the presence of those wastes might adversely affect prospective bidders from participating in the bidding and thereby would cause irreparable loss to Cochin Port. Further, it also creates an unhealthy atmosphere for the residents, business establishments and other people in the locality.

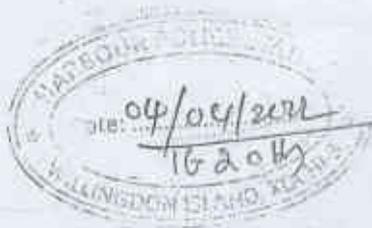
Hence, it is requested that a discreet investigation may be conducted in the matter and all necessary actions may be taken to punish the culprits who have committed such offense on public property. As there are chances that the culprits or other persons might continue to commit the offence, it is also requested that necessary surveillance may be extended to the area to avoid further dumping of waste.

Yours faithfully,

W/Island,
04-04-2022

Ravuth
21/4/22
Dy. CME (Estate)

Cochin Port Authority



Received

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o/c