

BEFORE THE HONORABLE
NATIONAL GREEN TRIBUNAL(SZ) CHENNAI

Appl. No 142/2020

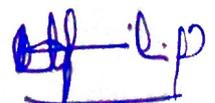
Renny Jacob George - Applicant

KSPCB and others- Respondents

Preliminary objection submitted by the 8th respondent in the above
case

I **Naveen Methew Philip**, S/o Philip Mathew aged 39 years, Thekkenedumplackal, Mullappally West P.O, Pathanamthitta do hereby solemnly affirm and stated as follows.

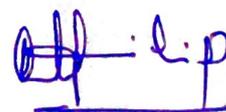
I am the 8th respondent in the above case and am conversant with the facts of the case. The above application is not maintainable either on law or on facts of the case. The allegation and averments in the above application are false and unsustainable in the law. The applicant has no cause of actions against this respondent. Even though the applicant claimed ownership of certain property adjacent to the quarrying area of this respondents, No evidences, neither copy of Tax receipt nor title deed is produced by the applicant to support his claim. It is also pertinent to that the applicant has elaborately shown nearly 11 survey numbers of the properties owned by this respondent, he is silent about the survey number of his own property. He has no such property in the near vicinity of the quarry of this respondent. It is respectively pointed out that, the submission before this honorable Forum by the applicant that , *'thereafter the activity of 8th respondent was challenged before the High Court of Kerala, by filing a writ*



petition, and High Court had set aside the mining operation of this respondent' is not finally correct. Form Annexure -A5 Judgment it is evident that the honorable High Court was pleased to reject the prayer of the Applicant to cancelling the mining leases issued to this respondent, but on the other hand, the Honorable High Court was pleased to allow this respondent to proceed with the quarrying operation in the area covered under the first lease and permitted this respondent to resume the quarry operations in the area covered under the 2nd lease after obtaining the EC.

The allegation of the Applicant that 'after the judgment this respondent was doing quarrying operation is also not fully correct. The respondent resume quarrying operations only as permitted by the Honorable High Court. It is true that the Quarrying operation in that property was there since 1982.

It is submitted that the operation in quarrying area has not reached the ground level. Hence the 8th respondent is entitled to get fresh quarrying permit in the same area under the provision of KMMC Rules and the submission that no steps have been taken by the respondent to close the pits and reclaimed the area has required by the mining lease and the mining closure plan produced by this respondent is equally false. The two leases allotted to this respondent were under the provision of KMMC rules 1967. There was no provision under 1967 KMMC Rules for submission of mining plan and mining closure plan. The mining plan was implement only through KMMC Rule 2015 which came into exist only on 17.02.2015. As per rule 66 of 2015 KMMC Rules, all the then existing lease holders were allowed to submit their mining plan before 07.02.2016, with in one year from the date of Publication of the new Rules . Before that period, the quarrying operations of this respondent came to end and hence no mining plan or mining closure plan was submitted by this respondent. All the



quarrying operation conducted by this respondent was with all required licenses and Permits. Hence the allegation of the Applicant that this respondent has conducted illegal mining is false and unsustainable. Moreover the quarrying operations of this respondent and validity of licenses were challenged before the Hon'ble High Court in several occasions and none of the licenses / permits, issued by the authorities were cancelled by the Hon'ble High Court.

The above application is barred by limitation and none of the reliefs sought in the Application are legally sustainable. There is no provision under KMMC Rules 1967 for reclaim the quarry area. Moreover, huge quantity of minable mineral is still exist in that area and hence the prayer in the Application is not sustainable either on law or facts. As explained earlier, no illegal mining was conducted by this respondent and hence prayer for direction to the 1st and 3rd respondents to initiate penal action against respondents is also not sustainable. This respondent conducted the quarrying operations only with permits and licenses from the authorities concerned and the officials respondent where acted fully under the provision of law. Hence they are not liable to be prosecuted for any violation.

The Applicant has no cause of action against this respondent. All the allegations and averments in the Applications were false and even considered by the Honorable High Court in several occasions. The only intention of the Applicant is to harass this respondent because of his enmity towards this respondent. The Applicant has mislead the Court with false averments and submissions.

This preliminary objection is filed , reserving the respondent's right to file detailed objection, if necessary and for the interest of Justice.



For the above reasons, it is most humbly prayed that the Hon'ble tribunal may be kindly pleased to dismiss the above application with cost.

Dated this the 12th day of April 2021.

Deponent :

Solemnly affirm and signed before me by the deponent, who is personally known to me on this the 12th day of April 2021 at my office Ernakulam.

BABY KURIAKOSE
Advocate (K 295/87)
M/s. KUMAR & KUMAR
Parks Building Kochi-11

~~Baby KuriaKose~~

Advocate

(K 295/87)

03012035238

12 | 04 | 2021