

Annexure R 10

IN THE HIGH COURT OF KARNATAKA; AT BANGALORE.

(ORIGINAL JURISDICTION)

WRIT PETITION NO. /2020 (PIL- ENVN)

BETWEEN:

M/s. PARISARA HITHARAKSHANA SAMITHI(Reg)

Somashekar Building,
1st Floor, Devarayasamudra
Mulbagal Taluk- 563 127
Kolar District, Kolar,
Karnataka

Rep. by President

SRI. V. RAJAPPA

...PETITIONER

AND

1. The State of Karnataka

By its Chief Secretary

Vidhanasoudha
Bangalore - 560 001.

2. The Union of India

Department of Forest &
Environment

Parisara Bhavana
New Delhi - 560 001.

3. The Secretary

Department of Forest & Environment

State of Karnataka
Vidhana Soudha
Bangalore - 560 001.

4. The Principal Secretary

Department of Revenue

State of Karnataka
Vidhana Soudha
Bangalore - 560 001.

5. The Secretary

**Department of Industries & Commerce,
Mines & Geology,**

State of Karnataka
Vidhana Soudha
Bangalore - 560 001.

- 6. The Director**
Department of Mines & Geology,
Khanija Bhavan
Race Course Road
Bangalore-560 001.
- 7. The Deputy Commissioner**
Kolar District,
Kolar-563 101.
- 8. The Superintendent of Police**
Kolar District,
Kolar-563 101
- 9. The Chairman/Member Secretary**
Pollution Control Board
Church Street,
Bangalore-5600 75.
- 10. The Chief Conservator of Forest**
State of Karnataka,
Aranya Bhavana,
Malleshwaram,
Bangalore- 560 003.
- 11. The Deputy Conservator of Forest**
Kolar District,
Kolar-563 101.
- 12. The Senior Geologist**
D. C. Office Complex,
Tamaka,
Kolar-563 101.
- 13. The Tahasildar,**
Mulabagal Taluk
Mulabagal.
Kolar Dist-563 127.
- 14. The Panchayath Development Officer**
Devarayasamudra Grama Panchayath
Mulbagal Taluk
Kolar District-563 127.

15. M/s. G. V.V. Construction
Varadapura Village
Mulabagal Taluk
Kolar District-563 127.

16. M/s. Balaji Granites
#39, Balaji Nilaya
Basavanapura Main Road
K. R. Puram
Bangalore- 560 036
Rep. by Sri. B. Bhagavan Singh

17. M/s. SVS Associates
Yelagondahalli Village
Mulabagal Taluk,
Kolar District-563 127.

18. Sri. S. Kumar
Chamarahalli Village & Post
Uthur Hobli
Mulabagal Taluk-563 127.

19. Sri. T. V. Srinivas
Devarayasamudra
Mulabagal Taluk
Kolar District-563 127.

20. M/s. P.M.Granites Export Pvt., Ltd.
#129, 7th Main, V Block
Jayanagar
Bangalore – 560 041.

21. M/s.PMU Constructions Pvt. Ltd.,
#17, 38th Cross, 8th Block,
Jayanagar,
Bangalore-560 041.

22. Sri. Ram .K
Manjula Bran Traders
'Srinilaya', 2nd Floor
Ashwini Layout,
KSRTC Depot
Bangalore Road,
Chintamani
Chikkaballapura Dist.,-563 125.

23. M/s. United Infra Corpn. Ltd.
At Devarayasamudra
Mulbagal Taluk
Kolar District-563 127.

24. Sri Venkateshwara Crushers
Hosakere Village
Devarayasamudra
Mulbagal Taluk & Post
Kolar District-563 127.
Rep. by its Proprietor
Sri. Sonne Gowda

25. M/s. Millennium Crushers
Sy. No.179 Devarayasamudra
Mulbagal Taluk
Kolar District-563 127
Rep. by Sri. Lakshminarayan

...**RESPONDENTS**

MEMORANDUM OF WRIT PETITION UNDER ARTICLE
226 & 227 OF CONSTITUTION OF INDIA

The Petitioner most respectfully submits as under:

1. The Petitioner is a registered legal entity duly registered before the competent Registering Authority at Kolar assigned with Registration Certificate bearing No.DRKL/SOR/87/2020-2021 dated 24/08/2020, copy of the Registration Certificate issued is herewith produced and marked at **ANNEXURE-A**.

2. The Petitioner Samithi, a group of like-minded Environmentalists in the Village of Devarayasamudra with likeminded group Environmentalists to protect the

Environment more particularly the Mountain Region of Devarayasamudra^{Avani} assigned with Sy. No.199 measuring an extent of **1296.21 Acres**, classified as 'Mountain & Gomala', earlier the entire land has been transferred to Department of Forest, State of Karnataka, to safeguard and protect by afforestation. In order to evidence the nature of land and its extent, recent RTC Extract in respect of land bearing Sy. No.199 of Devarayasamudra^{Avani} Village, Mulbagal Taluk is herewith produced and marked at **ANNEXURE-B**. This petition is **presented as 'probono-publico' in the larger interest of 16 (Sixteen) Villages surrounding Devarayasamudra^{Avani}**, Mulabagal Taluk, Kolar District, the petitioner having no personal interest in whatsoever manner.

3. The place is a blessed place with the Mountain as well as Environment Beauty. The Hillock having checkered history, the entire Hillock and Mountain Region is with Lush Green Trees and Shrubs. In and around the Mountain the villages viz., (1) Hosakere, (2) Thattanagunte (3) Keeluholali, (4) Varadaganahalli, (5) Avani, (6) Cholanagunte, (7) Ramasandra, (8) Devaraya-samudra, (9) Honnashetta-halli, (10) Yalagondahalli, (11) Mallapanahalli, (12) Putheri, (13) Dodiganahalli, (14)

Ramanathpura, (15) Belamballi & (16) Kempapura villages with perennial water sources from the Mountain. In and around the village of Devarayasamudra^{Avani} water source is good and agricultural produce is highly appreciable with potential 2 or 3 crops per year.

4. It is submitted that, one another Historical feature of this place is nearby a small Hilly Mountain called 'Hanumanahally' 'Bodi Bande', rarest species of the Bats called 'Leaf Mouth Bats' and "Durgadas Leaf Face Bats" are habitants, a rare species in the World. There are several special features of this Devarayasamudra^{Avani} Village and the Mountain, few photographs evidencing the present scenario are herewith produced and marked at **ANNEXURE-C1 to C10.**

5. The Petitioner submits that, in the year 2017, there has been authentic information that the said Devarayasamudra Mountain is proposed for Quarry, Granite Crushing and M-Sand extraction, at that that time, Grama Panchayath called Special General Body Meeting and passed a Resolution and opposed with serious objection not to permit for Quarry or Stone Crushers not to deface the Mountain/ Hill in the Region of Devarayasamudra^{Avani}. The

Resolution passed in the Special General Body Meeting is herewith produced and marked at **ANNEXURE-D**.

6. In the year 2017, the Village Grama Panchayath passed Resolution there was protest, agitation, by the large number of people in the 16 (Sixteen) villages, widely circulated newspapers in the District of Kolar and in the State of Karnataka published and brought to the notice of Government, the attempt made by the local authority to deface the Historical, Bio-diversity mountain of Devarayasamudra, few paper report/ cuttings are herewith produced and marked at **ANNEXURE-E1 & E2**.

7. The Petitioner states the Villages of Hosakere, Devarayasamudra^{havan} and surrounding villages have made representations commencing from 2010 onwards, few representations and strong opposition to permit the Crushers and Granite Work in the surrounding area has been acknowledged by the authorities, copies of the representations are herewith produced and marked at **ANNEXURE-F1 to F2**.

8. The Petitioner states that the Devarayasamudra^{havan} Mountain is having special features and significance it is Single Rock Hill as can be seen in the photograph. The

wild animal viz., Flock of Deers, Wild Boar, Cheetahs and plenty of Peacocks are the natural habitants of this region. The Rain water catchment in this region of 1200 Acres and odd hill region there are several tanks (lake) viz., Hosakere, Shamaiahna Lake, Devarayasa-mudra Tank, Chikka Lake, Dodda Lake, Venkatamma Lake, Pallikunte, Uddina Kunte Tank, Thammegowdana Lake are existing tanks, the source is the Devarayasamudra^{AVON} Hillock/Mountain. In the Village Keelahollali & Devarayasamudra, presently Government has established '**Murarji Desai Residential School**' where 150 to 200 children are given residential accommodation, hardly about 400 meters away from the Mountain, the Village Honnashettahalli identified in the country. The '**Grama Vikas**' an N.G.O., established by **Sri.M. V. N. Rao** in the State of Karnataka, is an Administrative Training Centre for all Departments are assigned to this 'Grama Vikas Institution', recognized catering the needs of Government local bodies in the matter of affording training to the people, it is hardly 400 meters from the Hill.

9. The Petitioner states that the people of Honnashettahalli made detailed representation in the year 2010 onwards. The State Government and the Departments

concerned having knowledge and are aware of the terrain of the village mountain environment, wild life and tanks, agriculture surrounding hillock knowing fully well, the State Government for extraneous considerations without disclosing these facts have caused notification and accord permission to mining activities, The Certificate issued for M-sand purpose dated 25-11-2015, copies of the certificates are herewith produced and marked at **ANNEXURE-G1 & G2**. The authorities are obviously in nexus with Granite Lobby/ Mafia, it is for commercial exploitation, the environment and rarest species are sacrificed by the authorities/ bureaucrats, it is most heinous act and unpardonable act, despite strong agitations, protest by the people, the authorities either ignoring or having yielded to the pressure of Granite Mafia for political reasons have declared the 'Safe Zone'. In furtherance the authorities are preparing to lease the Mountain/ Hillock to the Granite Lobby.

10. The Petitioner states that the manner in which the authorities knowing fully well the ground reality, more specifically the significance of the Mountain Devarayasamudra^{Devaray} and rarest species of 'Leaf Mouth Bats' are in existence and there are several other eco

friendly natural habitants. The report of the competent authority and the representation of the surrounding villagers which evidence prima-facie that the entire region is with the natural greenery/shrubs and several wild life animals are in the region, besides the water source in the rainy season surrounding 1200 Acres is natural water resources, catchment to 16 Villages the lands are fully cultivated with annual two crops, the usual crops grown in the lands are Paddy, commercial crops viz., vegetables, mulberry etc. The catchment area is covered with vast extent. The water collected in the catchment area saved in the tanks viz., Avani Tank. By either allowing or permitting the Excavation of Stone crushing, certainly cause irreparable damage to the village/s. The members in the Petition Society have conveyed complaints before the competent authorities, the authorities are not taking steps with abundant caution to prevent the exploitation of nature and natural resources, the representations made are herewith produced and marked at **ANNEXURE-H1 & H2.** The Petitioner aggrieved by the inaction on the part of respondent authorities, this Memorandum of Writ Petition amongst following other grounds.

11. The Respondent authorities, more specifically Respondent Nos.4, 5, 6, & 7 having vested interest for the reason the lobby of Granites and Crushers are more powerful having political power and money power, the Respondents ought to have examined independently the terrain situation a rare species of Bats and the Lakes/Tanks surrounding 16 Villages with radius of 15 to 20 Kms and the Wild Animals particularly spotted Deers', Wild Boar, Pea-cocks since time immemorial is habitants in the locality and in the hillock region. By declaring the area as safer zone is most irrational and illegal. The law declared and laid down by the Hon'ble Apex Court in 'T.N.Godavarman Thirumalpad -Vs- Union of India' is not either in the knowledge of authorities or for political reason they have overlooked and have declared the region as safe zone. On enquiry, it is found that the office of the Deputy Commissioner issued Notification of the year 2013 bearing No.MAS/CR/2451/12-13 dated 16/2/2013, copy of the same is herewith produced and marked at **ANNEXURE-J**.

12. The Notification is issued behind the back of public and at the instance of local powerful politicians having directly or indirectly nexus with Granite Lobby, the common man and common citizens cannot raise objection

and cannot question the arbitrary action of the authorities, since the persons involved in the Granite Lobby are most **'Dangerous'** to the life and limb of ordinary citizen. The entire bureaucratic machinery is acting at the instance of Granite Lobby. The declaration of Safer Zone is back door entry behind the back of public and Environment Activists, this fact to be taken into consideration seriously by this Hon'ble Court in the light of 'T.N.Godavarman Thirumalpad -Vs- Union of India' case, thus the petitioner aggrieved by the arbitrary, indiscriminate, illegal acts and deeds of respondent authorities.

13. The Petitioner and group of Environmentalists are crusade against the illegal Mining carried out by the respondents. In this regard, the Petitioner and villagers made several complaints before the Police Authorities as well as Revenue Authorities, it is unfortunate that police authorities at the instance of Granite Mafia are causing harassment, humiliation to the Petitioner members, by calling to the police station and insisting to give an undertaking etc. Further, the police authorities have stooped to the level of receiving frivolous complaints from the Granite Lobby and foisting false cases against the Environmentalists, it causes serious hindrance to the

down in 'T. N. Godavarman Thirumalpad -Vs- Union of India', in W.P No.202/1995, the authorities in flagrant violation have declared the Forest Area as 'Silent Zone' at Annexure-K and issue of licence to the Granite Lobby at Annexure- series are patent illegalities by respondent authority, warrants issue of appropriate writ and to quash the notification and licenses issued by the respondent authorities in favour of Respondent Nos.15 to 24.

ii. The Respondent No.5 and 6 knowing fully well that the entire area of Devarayasamudra^{Thyvar} Mountain/ Hill is Forest area with rare species of wild life have ventured to issue licence obviously for extraneous reasons and having vested interest, it is dangerous and cause irreparable injury to the Environment, nature, more so, the terrain region harboring habitants of rarest species.

iii. It is the statutory duty of the authorities to Exercise powers and Article 48-A and 51-A(g) of the Constitution of India, the exploitation of natural resource, natural mountains, terrain, having disasters effect on the environment surrounding and livelihood of 20 Village population besides inviting serious climatic hazardous, thus warrants issue of appropriate writ at the hands of

this Hon'ble Court to protect safeguard the entire terrain region of Devarayasamudra^{AVANI} Mountain in the same statute.

iv. The Respondent Authorities have totally suppressed, bypassed the objections filed by the citizen, gramapanchayat and Environment Activists in the year 2010 onwards, the authorities have not applied prudent mind in order to evaluate and assess the quantum of damage which would cause by permitting the Granite Lobby to denude the entire mountain region of 1200 Acres declared in the Forest area.

v. The population surrounding 20 kms with water resource from the same mountain in the tank/ lake or perennial resources to the livelihood of the villagers in growing crops raring cattle, sheep and animal husbandry activities.

vi. The Village surrounding Devarayasamudra Mountain having 2 crops potential lands only out of the source of water (catchment) in the event of granting permission for Crushers and Granites the entire region becomes draught and land becomes waste land, thus by considering all these facts, the permission granted by the

authorities is patent illegality, calls for issue of appropriate writ and directions at the hands of this Hon'ble Court.

vii. The Respondent Revenue Authorities, Forest Authorities, Pollution Authorities, have brought the situation under very serious threat and the act of Granite Lobby is lawlessness the provision U/Sec.2 of the Forest (Conservation) Act 1980 Sec.2(ii) &(iv) - '2(ii) No State Government or other Authority shall make except with the prior approval of the Central Government, in order directing that any Forest Land or any portion thereof may be used for any non forest purpose' ; '2(iv) - that any Forest Land or any portion thereof may be cleared off trees which have grown naturally in that land', thus it is the statutory obligation on the part of Respondent autho

viii.

ix. rities to act in accordance with law as provided but failed thus warrants interference and pass appropriate order and direction

30.

GROUNDS FOR INTERIM PRAYER

The Respondent authorities despite protest and objections since 2010 are having audacity to issue

permission/licence to carry Crusher/ Granite work in the Mountain, the petitioner has produced prima-facie documents, which established the serious objections and nature of objections, thus the petitioner having prima-facie case for granting interim prayer in the event of not granting Interim Prayer, certainly the villagers of 10 Villages suffered more hardship and inconvenience to the natural habitants, wild life, Greenery and crops would be destroyed, the impact on the environment is irreparable and cannot be assessed.

31.

PRAYER

WHEREFORE, the petitioner most respectfully prays that this Hon'ble Court be pleased to:

1. Call for the entire records in respect of land bearing Sy. No.199 measuring an extent of 1296.21 Acres of Forest in Devarayasamudra^{Pravara} Village/ Panchayath, Mulbagal Taluk, Kolar District;
2. Issue writ of certiorari and quash the notification bearing No.MAS/CR/2451/12-13 dated 16/2/2013 at **ANNEXURE-J** consequently declaring that the entire area is **safe zone** and to declare that the area of Devaraya-samudra is protected area, not to permit any activists which would cause damage to the terrain and natural environment.

3. Issue Writ of Mandamus directing the Respondent No.3 to 12 to consider the representation dated 18-03-2010 dated.13-03-2017 at ANNEXURE-F1 & F2 and representations dated 05-07-2020 & 29-09-2020 at Annexure-H1 & H2 respectively, taking into consideration the serious objections by the people and residents in 20 villages and to pass appropriate order.
4. Issue Writ of Mandamus against Respondent No.1 to 14 to take immediate effective steps and protect the entire region from the on-slot of intruder, illegal quarry operators and to fence the entire area by cancelling the licence issued to Respondent Nos.15 to 25 declare that the licence are illegal in the light of 'T. N.Godavarman Thirumalpad -Vs- Union of India' declared law.
5. Issue Writ of Mandamus directing the Respondent No.8 Superintendent of Police to extend protection the life and limb of the petitioner members as well as villagers of Devarayasamudra, ^{Arvi} Mulabagal Taluk, Kolar District.
6. Pass such other order/s as this Hon'ble Court deems fit and proper in the circumstances of the case.

32.

INTERIM PRAYER

Pending final disposal of the above writ petition Petitioners most respectfully pray this Hon'ble Court be pleased to stay all further proceedings in pursuance of the licence issued in favour of respondent Nos. 15 to 25 in

23

respect of Devarayasamudra/^{Avani} Village and Panchayath,
Mulbagal Taluk, Kolar District not to operate Quarry
machineries, in the interest of justice and equity.

SCHEDULE

All that piece and parcel of the land presently
classified as Mountain - Gomala bearing Sy. No.199
measuring an extent of 1296.21 Acres situated at
Devarayasamudra/^{Avani} Village, Mulbagal Taluk, Kolar District
and bounded on:

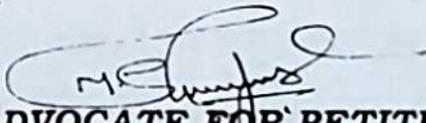
East by : Village boundary of Cholanagunte & Ramasandra
& Varadaganahalli.

West by : Holalli Village & Palar River

North by : National Highway & Kurubara halli gadi

South by : Hosakere Village.

BANGALORE
DATE: /12/2020


ADVOCATE FOR PETITIONER
M. SHIVAPRAKASH

ADDRESS FOR SERVICE:
M.SHIVAPRAKASH
K.RAVISHANKAR,
M/S JANARDANA & JANARDANA,
NO.105, 3RD CROSS,
GANDHINAGAR,
BANGALORE-560 009