

(2023) 01 KL CK 0207

High Court Of Kerala

Case No: Writ Petition (C) No. 35129 Of 2022

Sajith Lal

APPELLANT

Vs

District Collector Collectorate,
North Kalpetta P.O, Wayanad
673122

RESPONDENT

Date of Decision: Jan. 24, 2023

Acts Referred:

- Kerala Land Reforms Act, 1961 - Section 81, 81(e)

Hon'ble Judges: Murali Purushothaman, J

Bench: Single Bench

Advocate: Enoch David Simon Joel, S.Sreedev, Leo Lukose, Rony Jose, Cimil Cherian
Kottalil, Surya Binoy

Final Decision: Disposed Of

Judgement

Murali Purushothaman, J

1. The petitioner has been issued with Ext.P1 letter of intent by the Geologist, Wayanad for undertaking quarrying activity in 0.9915 hectares of land in various re-survey numbers in Kalpetta Village in Wayanad District. The petitioner states that on the basis of the letter of intent, he has secured necessary licence from other authorities for the quarrying activities including consent from the Pollution Control Board and Environmental clearance certificate from the SEIAA. The petitioner is also in possession of Ext.P2 Explosive licence issued by the District Collector for using explosives not exceeding 25 Kgs., which was valid up to 31.3.2017. The petitioner submitted Ext.P3 application for renewal of the said licence before the 1st

respondent-District Collector. The District Collector called for reports from various authorities. The 4th respondent, the Taluk Land Board submitted a

report to the effect that the property where the renewal of explosive licence has been sought for was one that was originally exempted as a plantation

under Section 81 of the Kerala Land Reforms Act, 1961 (for short, the Act). The petitioner states that the 1st respondent has shown reluctance to

renew the explosive licence solely on the ground that the property is one that was originally exempted as a 'plantation' under Section 81 of the Act.

The petitioner also states that the licence was originally granted since there was no prohibition in converting the land that was originally granted an

exemption under the Act. The petitioner relies on the decision of this Court in *Kinallur Rock Sand v. State of Kerala* (2021 (2) KLT 351) wherein it

was held that there is no prohibition in using the exempted land under the Act for different purposes. The petitioner submits that he is entitled for

renewal of Ext.P2 explosive licence de hors the fact that the land was originally exempted as a plantation under Section 81 of the Act.

2. A counter affidavit has been filed on behalf of the 1st respondent stating that the property in question is a Coffee Plantation exempted under

Section 81 of the Act and that any mode of quarrying in the area might result conversion of land which would be against the spirit of the Act.

3. Heard Sri. Rony Jose, the learned counsel for the petitioner and Sri. Jaffer Khan, the learned Government Pleader for the respondents.

4. The application of the petitioner for renewal of licence is not considered for the sole reason that the property in question was originally exempted as

a plantation under Section 81 of the Act.

5. The contention of the respondents is that permitting quarrying in a land which was exempted under Section 81 (e) of the Act would defeat the very

intention of the legislation behind the Act. The question as to whether there is prohibition in using an exempted land under the Act for different

purposes was considered by this Court in *Kinallur Rock Sand* (supra) and this Court held in paragraph 10 of the said decision as follows:-

“10. It was on that ground alone that NOC has been declined to the petitioner. It may be noted that there is no prohibition in using an exempted land under

the Kerala Land Reforms Act for a different purpose. And if the exempted land is utilised for any other purpose, it may fall within one's ceiling area and the authorities may be able to initiate ceiling proceedings. But, that cannot be a reason to decline permission for using the land for another purpose. This view is supported by the Full Bench judgment of this Court in Mathew K. Jacob & Anr. v. District Environmental Impact Assessment Authority, Kotayam (2018 (4) KLT

913 (F.B) = 2018 (5) KHC 487.â€

6. In the light of the law laid down by this Court in Kinallur Rock Sand (supra), I am not inclined to take a different stand on the basis of the submission of the learned Government Pleader.

7. Following the dictum laid down in Kinallur Rock Sand (supra), there will be a direction to the 1st respondent to consider Ext.P3 application of the petitioner for renewal of Ext.P2 explosive licence de hors the fact that the land was originally exempted as a Plantation under Section 81 of the Act, if the petitioner satisfies all other statutory requirements. This shall be done within a period of three weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.