

**BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM**

W.P. (C) No. of 2019

Petitioner:

K.M Hussain
S/O Muhammed kunju
Koithara vedu
Alumkadavil po,Alappad
Karunagappilly- 690573
Kollam District.

Vs

Respondents:

1. State of Kerala, represented by its Chief Secretary, Secretariat, Thiruvananthapuram - 695001.
2. The Secretary to Government, Industries Department, Secretariat, Thiruvananthapuram-695001.
3. The District Collector, Kollam.
4. Mullakkara Rathnakaran MLA, Chariman, Environment Assessment Committee, Niyamasabha Building, Trivandrum.
5. The Alappat Grama Panchayath, represented by its Secretary.
6. The Indian Rare Earths Limited,
Rep: By Managing Director
Chavara, 691584
Kollam.
7. Kerala state Remote sensing and Environment center,
Rep: its Secretery.1st floor, Vikas bhavan,Thiruvanathapuram- 695033

Address for service of notice and process to the petitioner is that of his counsel **P.E SAJAL**, Advocate, and the respondents is as shown above

**MEMORANDUM OF WRIT PEITITION (CIVIL) FILED UNDER
ARTICLE 226 OF THE CONSTITUTION OF INDIA
STATEMENT OF FACTS**

- 1 The petitioner is a Citizen of India residing in the above shown address. His house situates within the territorial limits of the 5th respondent Pannchayath in Karunagapally taluk of Kollam district. This writ petition is filed by the petitioner deeply aggrieved by the illegal sand mining being conducted by the 6th respondent, causing damage to the very existence of the Panchayasth itself.

2 The total extent of the Panchayath is 89.5 Sq.Mtr and now it has shrunk to 7.6 sq. mtr. The above land loss is solely due to the illegal mining conducting by the 6th respondent. The entire acts of the 6th respondent are without following any of the rules prescribed in this regard. Now what was land has become part of sea as the Panchayath was lying near to sea. Being a coastal line Panchayath most of them are engaged in fishing. But it has also become impossible due to the illegal mining.

3 The Panchayath is functioning like a buffer zone between the sea and the river. If all goes like this in the very near future the panchayath will submerge with the sea and it may lead to the world to see another natural calamity. The Panchayath is one of the area which had badly affected by Tsunami.

4 The petitioner like many other local residents had made protest against the illegal mining being carried out by the 6th respondent. But nothing could prevent them from the illegal mining. Due to this act if the strip of land erode further the backwater would merge with the sea and river water saline.

5 There was more than 10000 family's altogether. But the number of families now remains is only below 5000. The petitioner's family is one among them. The survey indicates that minerals are available only outside the CRZ zone. Even now the mining is conducting even inside the CRZ zone. The sea erosion has already reached very near to the house of the petitioner and he and his family lives under constant threat of a danger created by man. After so much struggle and agitations of the local residents including the petitioner they Government have appointed a committee to enquire into this matter. The committee so constituted after a detailed study submitted a report and it was placed before the State Legislative Assembly on 02/02/2018. A true copy of the report submitted by the 4th respondent is produced herewith and marked as **Exhibit-P1.**

6. The petitioner like many other local residents had made protest against the illegal mining being carried out by the 6th respondent. But nothing could prevent them from the illegal mining. Due to this act if the strip of land erode further the backwater would merge with the sea and river water saline. A true copy of the newspaper report in The new Indian Express and Mathrubhumi Daily, dated 10/01/2019 is produced herewith and marked as **Exhibit-P2.**

7. There were number of suggestion to save the Panchayath from the sea erosion so also to protect the ecological balance. But so far no action has been taken on the basis of the Exhibit-P1 report and the suggestions still remain as a line drawn in water.

Therefore left with no other alternative remedy the petitioner approaches this Honourable Court seeking its indulgence in the matter on the following among other

GROUND S:

- A. The inaction on the part of the official respondents in taking on Exhibit-P1 report is highly unjust and illegal.
- B. The specific suggestion of the 4th respondent was to constitute a committee consists of Government officials, environmentalists, people representatives and experts in this field to monitor the mining activities and to stop the activities as and when the cross the allotted limit. But no such action has been taken so far.
- C. The another suggestion was to create a *Pulimutty*, a 1 K.M long bridge made of stone stretching into sea, made by piling stone like a pathway to sea. There was also suggestion not conduct further excavation of sand which accumulates even after the mining activities since it is not at all scientifically. So also that the committee also prescribed six months rest in conducting mining so as to avoid sea washing. But none of these suggestions are put into practical causing danger to the life of petitioner and his family.
- D. The saline water has already destroyed the agricultural operations which were being carried out by the petitioner and other locals. Though there was suggestion to distribute compensation to the

locals for the loss caused to them due to the acts of the 6th respondent nothing has been distributed so far.

E. In the recent flood when all the person were at dark as to what to do who comes forward to help them is known to everybody now, the Fishermen. In that group of fishermen major chunk was from the Alappad Panchayath. But now they are in problem and they may visit with a big danger. Not only the Panchayath alone but the sea erosion will catch Karunagappally taluk, Sasthamcotta lake, Upper Kuttanad so a major portion of Travancore. Any such condition is one to be avoided by the timely intervention of this Honourable Court.

F. The illegal black sand mining is still going on without taking any steps to reconstruct the already excavated areas. The nearest place Ponmana, a hamlet, is a place which had already tasted the bitter in this same manner and it stares at the petitioner and other locals of the 5th respondent Panchayath. The studies conducted by various organizations always reminded us of the importance of keeping ecological balance at any cost. Even then the authorities are acting totally against causing damage to the inhabitants of the area including the petitioner and his family.

For these and other grounds that may be urged at the time of hearing it is most humbly prayed that this Honourable Court may be pleased to call for the entire records leading to the issue and further be pleased to

PRAYERS:

1. Issue a Writ of Mandamus or any other Writ, Order or Direction commanding and compelling the 1st respondent to implement the recommendations contained in Exhibit-P1 within a time limit to be stipulated by this Honourable Court;
2. Issue a Writ of Mandamus or any other Writ, Order or Direction commanding and compelling the 1st respondent to submit a report with regard to the action taken after the placing of Exhibit-P1;

2. The submissions made in the W.P. (Civil) are based on my personal knowledge and information and on instructions given by me. The Exhibits produced are the true copies of the respective original documents.
3. For the reason stated in W.P.(Civil) it is humbly prayed that this Hon'ble Court be pleased to grant the reliefs sought for in the W.P. (Civil) as otherwise I will be put to irreparable loss and injury.
4. The petitioner has not filed any petition earlier seeking similar and identical reliefs, in respect of the same subject matter before this Hon'ble High Court.

All the facts stated above are true.

Dated this the 12th day of January, 2019

Deponent:

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 12th day of January, 2019 at Ernakulam.

Advocate

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM**

WP(C) No. OF 2019

Hussain K.M

Petitioner

Vs

State of Kerala and others

Respondents

Synopsis

The petitioner is a Citizen of India residing in the above shown address. His house situates within the territorial limits of the 5th respondent Pannchayath in Karunagapally taluk of Kollam district. This writ petition is filed by the petitioner deeply aggrieved by the illegal sand mining being conducted by the 6th respondent without implementing Exhibit P1, causing damage to the very existence of the

Panchayath itself. The total extent of the Panchayath is 89.5 Sq.Mtr and now it has shrunk to 7.6 sq. mtr.

Dated this the 12th day of January, 2019

Counsel for the petitioner

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| 4 | Exhibit-P1- A true copy of the report prepared and submitted by the 4 th respondent. | |
| 5. | Exhibit-P2- A true copy of the newspaper report in The new Indian Express and Mathrubhumi Daily, dated 10/01/2019 | |

Dated this the 12th day of January 2019

Counsel for the petitioner

Sub: Miscellaneous:- Direction to Implement Exhibit P1 Recommendation.

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**MEMORANDUM OF WRIT PETITION FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

**P.E SAJAL(S-2770).
Counsel for the Petitioner**

Appendix

Petitioner's Exhibits:

Exhibit-P1- A true copy of the report prepared and submitted by the 4th respondent.

Exhibit-P2- A true copy of the newspaper report in The new Indian Express and Mathrubhumi Daily, dated 10/01/2019