

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION,
THIRUVANANTHAPURAM**

**Present: Mr.Justice N.Dhinakar,
Hon'ble Chairperson**

Dated this the 1st July, 2010

H.R.M.P.No 390 of 2010

Petitioner : Laila Beevi, Darul Huda,
Manjamala.P.O, Kalluvetti Ward,
Pothencode Panchayat, Thiruvananthapuram.

Respondent :

ORDER

The complaint of the petitioner is that her neighbour Naseer is conducting earth mining operation very close to her house, using JCB, on account of which her house and property are in danger. According to her, Naseer is trying to construct a house there with the consent of the Panchayat and her complaints to the Revenue Divisional Officer and the Police had become futile.

In the report submitted by the Revenue Divisional Officer (RDO), Thiruvananthapuram, it is stated that the petitioner filed a petition before the RDO on the same subject matter and it was enquired through the Village Officer, Keezhthonnackal. According to the report, the Village Officer reported that the property in resurvey No.237/5/24, comprising 4.95 ares land, is in the name of the petitioner's husband Abdul Basheer and the earth mining was conducted by keeping away one meter from the common boundary of the petitioner and the respondent Naseer and the earth was mined from a distance of four meter from the house of the petitioner. On the basis of the above report of the Village Officer the parties were summoned for hearing and Abdul Salam appeared representing

Naseer who submitted the order of the District Collector in P.G.R.C. No.45/10 dated 23-4-2010 and also the Commission report in Civil No. 53/10 of Attingal Munsif Court. The District Collector in order No. P.G.R.C.45/10 directed the Secretary Pothencode Grama Panchayat to issue consent to Naseer for house construction and also to realize the royalty after fixing the quantity of the earth mined. According to the report, the Commission report in Civil No.53/10 was also verified and it shows that Naseer mined earth for a depth of 9 feet using JCB two years ago and the protection wall was not damaged on account of the mining.

The above report shows that the Munsif Court, Attingal, appointed a Commission in Civil No.53/10 regarding the issue raised in the petition and this Commission cannot pass any further orders in the matter since Court has initiated steps and thus it had become subjudice. It is also stated in the report that the District Collector vide Order No.P.G.R.C.45/10 directed the Secretary of the Panchayat to issue consent/permit to Naseer for the construction of the house and if the petitioner is aggrieved against the above order she has to challenge the same before the Court only.

With the above observation the petition is closed.

Justice N.Dhinakar,
Chairperson