

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WA.No. 1264 of 2015 IN WP(C).15275/2015

AGAINST THE JUDGMENT IN WP(C) 15275/2015 DATED 01-06-2015

APPELLANTS/PETITIONERS :

1. ALEYAMMA THOMAS,
KINATTUMOOTIL HOUSE, KOTTAYAM - 1.
2. C.T. ASBRAHAM,
KINATTUMOOTIL HOUSE, KOTTAYAM - 1.
3. SUSY ABRAHAM,
KINATTUMOOTIL HOUSE, KOTTAYAM - 1.

BY ADVS.SMT.K.P.SANTHI
SRI.RILGIN V.GEORGE
SMT.E.U.DHANYA

RESPONDENTS/RESPONDENTS :

1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE DISTRICT COLLECTOR, KOTTAYAM - 686 002.
3. THE GEOLOGIST, MINING AND GEOLOGY DEPARTMENT,
DISTRICT OFFICE, CIVIL STATION,
KOTTAYAM - 686 002.

BY SPL.GOVERNMENT PLEADER, SMT. GIRIJA GOPAL.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ASHOK BHUSHAN, CJ
&
A.M.SHAFFIQUE, J**

W.A.No. 1264 of 2015

Dated this the 18th June, 2015

JUDGMENT

Ashok Bhushan, CJ.

Heard learned counsel for the petitionerS and the learned Special Government Pleader.

2. This Writ Appeal has been filed against the judgment dated 1.6.2015 in W.P(C).No. 15275 of 2015 by which judgment the Writ Petition filed by the appellant has been dismissed. The appellant had filed the Writ Petition seeking a direction to permit the petitioner to remove sand from the property having an extent of 5.65 Ares of land in Sy.Nos.30/2-2, 471/1, 47/2, 47/3 of Muttampalam Village, Kottayam Taluk. The petitioner made an application dated 26.3.2015 seeking NOC and came to the Court. The learned Single Judge dismissed the Writ Petition observing that quarrying permit for ordinary

earth has to be applied under Rule 14 of the 2015 Rules and an exemption is granted only with respect to extraction of ordinary earth having a plinth area less than 300 sq. metres. The learned Single Judge further observed that the petitioners would have to obtain quarrying permit under Rule 14 of the 2015 Rules, which can be applied for only after obtaining the environmental clearance certificate. Learned counsel for the appellants submits the NOC is a pre-condition for making application under Rule 14 of the 2015 Rules.

3. A perusal of the application submitted by the petitioners we find that it does not indicate that the petitioners have applied for NOC with intent to make an application according to 2015 Rules for the grant of mining permit.

In view of the above facts and circumstances, we do not find any error in dismissing the Writ Petition. However, we make it clear that it shall be open for the appellants to make a fresh application for NOC after giving the relevant details.

With the above observation, the Writ Appeal is dismissed.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs18/6/15