

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

W.P.(C).No.266 of 2015 (G)

PETITIONER(S):-

1. MATHAI K P., AGED 49 YEARS, S/O.LATE PAILY,
RESIDING AT KUPPAKKATTU HOUSE,
PANKODU KARA, PANKODU P.O, PIN-682 310.
2. VIJI MATHAI, W/O.MATHAI, AGED 38 YEARS,
RESIDING AT KUPPAKKATTU HOUSE, PANKODU KARA,
PANKODU P.O, PIN-682 310.

BY ADV. SRI.N.M.VARGHESE.

RESPONDENT(S):-

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
REVENUE (R) DEPARTMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.
2. THE SUB COLLECTOR,
MUVATTUPUZHA, ERNAKULAM DISTRICT - 686 661.
3. THE TAHSILDAR, KUNNATHUNAD TALUK,
TALUK OFFICE, PERUMBAVOOR, ERNAKULAM DISTRICT - 683 542.
4. THE VILLAGE OFFICER,
MAZHUVANNOOR VILLAGE, VILLAGE OFFICE,
MAZHUVANNOOR - 686 669.
- Addl.5. THE SENIOR DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY, CIVIL STATION,
KAKKANAD, ERNAKULAM - 682 030.

[ADDL.5th RESPONDENT IS IMPEADED AS PER ORDER
DATED 22.06.2015 IN IA 7014/15].

R1 TO R5 BY GOVERNMENT PLEADER SRI.S.JAMAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1 - COPY OF SALE DEED NO.8750/08 DATED 31-12-2008 OF SRO, PUTHENCruz.
- EXT.P2- COPY OF BASIC TAX RECEIPT NO.4405333 DATED 27-5-2014 IN THE THANDAPPER NO.4771 ISSUED IN THE NAME OF THE PETITIONERS.
- EXT.P3 - COPY OF LOCATION SKETECH NO.1516/2013 CONCERNING THE PROPERTY OF THE PETITIONERS ISSUED BY THE 4TH RESPONDENT VILLAGE OFFICER.
- EXT.P4 - COPY OF CERTIFICATE OF POSSESSION NO.4044539 DATED 3-10-2013 CONCERNNG THE PROPERTY OF THE PETITIONERS ISSUED BY THE 4TH RESPONDENT VILLAGE OFFICER.
- EXT.P5 - COPY OF APPLICATION DATED 4-9-2014 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT.
- EXT.P6 - PHOTOCOPY OF BUILDING PERMIT NO.BP-53/15 DATED 13.3.2015 ISSUED BY THE SECRETARY, MAZHUVANNOOR GRAMA PANCHAYATH.
- EXT.P7 - PHOTOCOPY OF GOVERNMENT ORDER CU(K) NO.12/2014 DATED 15.11.2014.
- EXT.P8 - PHOTOCOPY OF THE AFFIDAVITS EXECUTED BEFORE THE GEOLOGIST.

RESPONDENT(S)' EXHIBITS:-

NIL.

VKU/-

[TRUE COPY]

K. Vinod Chandran, J.

W.P.(C).No.266 of 2015-G

Dated this the 06th day of July, 2015

JUDGMENT

The petitioner had filed the above writ petition in January, 2015 for a direction to the 2nd respondent, the Sub Collector, to pass orders on Exhibit P5 application of the petitioners.

2. Exhibit P5 application of the petitioners was with reference to removal of soil from a property in which the petitioners had intended to construct a residential building. The petitioners admittedly, at that point of time, had not obtained any building permit from the Local Self Government Institution. In such circumstance, the consideration of Exhibit P5 could not have been directed.

3. Subsequently, the petitioner obtained a building permit, as is seen in Exhibit P6. By that time, the Kerala Minor Mineral Concession Rules, 2015 came into force. The petitioner, hence would have to apply under the provisions of the Rules of 2015, to carry on the excavation and also to transport sand, if need be.

The writ petition would stand closed, leaving the petitioner's remedy to approach the appropriate authority under the Rules of 2015.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]