

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 458 of 2015 (F)

PETITIONER :

**SUNIL KUMAR, AGED 51 YEARS,
S/O. K.R OMANA, PUTHENPURYIL , MEVALLOOR P.O.,
VELLOOR VILLAGE, VAIKOM TALUK, KOTTAYAM DISTRICT**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS :

- 1. THE DISTRICT GEOLOGIST
OFFICE OF DISTRICT GEOLOGY, KOTTAYAM DISTRICT
PIN 686 002**
- 2. THE DIRECTOR
MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY,
KESAVADDASAPURAM, PATTAM, THIRUVANANTHAPURAM 695 001**
- 3. THE STATE OF KERALA
REPRESENTED BY JOINT SECRETARY TO GOVERNMENT
INDUSTRIAL DEPARTMENT, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001**

BY GOVERNMENT PLEADER SRI.K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 458 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF PERMIT DATED 3-12-2014 ISSUED BY THE FIRST
RESPONDENT TO THE PETITIONER FOR OPERATING QUARRY.**

**EXHIBIT P2: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
DATED 17-07-2014 IN WPC NO 17192 OF 2014.**

**EXHIBIT P3: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
DATED 21-08-2014 IN WPC NO 20936 OF 2014**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 458 of 2015

Dated this the 9th day of January, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- "1. Issue a writ of mandamus or other appropriate, writ direction or order directing the first respondent to issue sufficient P forms to the petitioner for transporting the top soil of ordinary sand from his property for the purpose of mining ordinary sand on the basis of exhibit P1 permit without insisting no objection certificate from the District Collector or clearance certificate from the Kerala State Environmental Impact Assessment Authority.*
 - 2. Declare that no objection certificate from the District Collector or clearance certificate from the Kerala State Environmental Impact Assessment Authority is not required under section 5(7) of Kerala Minor Mineral Concession (Amendment) Rules 2012 for transporting the top soil removing from the quarry site on the basis of exhibit P1 permit.*
 - 3. Declare that there is no law to keep top soil in the premises of the quarry of petitioner for the purpose of refilling the pit after mining and petitioner can use any other mode for refilling the pit after completion of mining operation."*
2. The learned counsel for the petitioner points out that,

the 1st respondent has issued Ext.P1 'Permit' authorising him to mine ordinary sand from his property having an extent of 9.72 Ares situated in Survey No.793/2A, 2B of Velloor Village, Vaikom Taluk. The petitioner has removed the top soil for enjoying the benefit of Ext.P1 and the same is sought to be transported for which issuance of sufficient 'P Forms' is necessary. The grievance of the petitioner is with regard to the unreasonable restriction that is being imposed by the 1st respondent, insisting that, the petitioner has to produce a further 'No Objection Certificate' from the District Collector and a 'Clearance Certificate' from the Kerala State Environmental Impact Assessment Authority. This made the petitioner to approach this Court for appropriate relief, also pointing out that relief has already been granted by this Court under similar circumstances as evident from Exts.P2 and P3.

3. Heard the learned Government Pleader as well.

4. Admittedly, Ext.P1 permit is valid till 02.02.2015. The learned Government Pleader points out that the petitioner can seek for issuance of 'P Forms' only in respect of the specific quantity to be removed from the site, so long as Ext.P1 Permit is valid.

5. The learned counsel for the petitioner submits that the petitioner is ready to confine his operations to the said extent, as strictly covered by Ext.P1 Permit.

6. In the said circumstances, there will be a direction to the 1st respondent to issue necessary 'P Forms' to the petitioner to enable the petitioner to transport 'top soil', so as to enjoy the benefit flowing from Ext.P1 Permit. It stands confined to the specific terms of Ext.P1 and so long as the said permit is valid and in existence and it shall be without insisting for 'NOC' from the District Collector or 'Environmental Clearance' as aforesaid.

The writ petition is disposed of. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the concerned respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.