

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 1176 of 2015 (V)

PETITIONER(S):

**SUNOJ, AGED 38 YEARS,
W/O.DILEEP, RESIDING AT CHIRAYIL HOUSE
PALLAM KARA, PALLAM P.O, KOTTAYAM TALUK
KOTTAYAM DISTRICT REPRESENTED BY
POWER OF ATTORNEY HOLDER M.C JOSEPH
SON OF CHACKO, AGED 65 YEARS
RESIDING AT MANNARAMATTATHIL HOUSE, VELIYANNOOR (P.O)
VELIYANNOOR DESOM, VELIYANNOOR VILLAGE
MEENACHIL TALUK, KOTTAYAM DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE SENIOR GEOLOGIST, DEPARTMENT OF MINING AND
GEOLOGY, DISTRICT OFFICE, KOTTAYAM DISTRICT 686 576.**
- 2. THE VILLAGE OFFICER,VELIYANNUR VILLAGE,
KOTTAYAM DISTRICT 686 576.**
- 3. THE STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.**

BY SENIOR GOVERNMENT PLEADER SRI.MUHAMMED SHAFI.M.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE BUILDING PERMIT DATED 4-4-2014 ISSUED BY
THE SECRETARY VELIYANNUR GRAMA PANCHAYATH**
- EXHIBIT P2 TRUE COPY OF THE ORDER ISSUED BY THE FIRST RESPONDENT
DATED 23-12-2014**
- EXHIBIT P3 TRUE COPY OF THE ORDER DATED 30-12-2014 ISSUED BY THE FIRST
RESPONDENT**
- EXHIBIT P4 TRUE COPY OF THE NEWS ITEM PUBLISHED IN KERALA BHUSHANAM
DAILY DATED 3-01-2015**
- EXHIBIT P5 TRUE COPY OF THE CERTIFICATE DATED 5-1-2015 ISSUED BY
CONSULTANT ENGINEER OF PETITIONER**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 1176 of 2015

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Dated, this the 16th day of January, 2015

JUDGMENT

The petitioner wanted to construct a residential building in the property belonging to him and on approaching the local authority, after considering the facts and figures Ext. P1 building permit was issued on 04.04.2014. Since the property is not lying on a uniform level, earth has to be excavated from the property. By virtue of Rule 8 (1B) of the Kerala Minor Mineral Concession Rules [amended as per G.O. bearing No. 93/2014/ID dated 30.06.2014, the petitioner does not require to obtain any NOC or permit for issuance of 'P Forms. It is stated that the petitioner has satisfied the royalty payable and accordingly, P Forms were issued to the petitioner. However, on the basis of some frivolous complaint, sanction given to the petitioner was cancelled, as per Ext. P3, directing the petitioner to surrender the balance P forms, which made the petitioner to approach this Court.

2. Heard the learned Government Pleader as well, who submits that Ext. P3 is only a notice and that the petitioner can be given an opportunity to submit his explanation. The course of action intended to be pursued is discernible from the penultimate sentence of Ext. P3.

3. After hearing both the sides, this Court finds that cancellation of the sanction already given can only be after giving an opportunity of hearing to the petitioner. Ext. P3 shall be treated as a notice and petitioner shall file objection, if any, within two weeks from the date of receipt of a copy of this judgment. On receipt of the objection as above, the matter shall be considered and the proceedings forming the subject matter of Ext. P3 shall be finalized by the first respondent, in accordance with law, after hearing the petitioner, which shall be done as expeditiously as possible, at any rate, within one month from the date of receipt of objection as above. If any violation is established, it will open for the petitioner to have the offence compounded, pursuing appropriate steps under the relevant provisions of law. In view of the turn of events as above, further transportation of ordinary earth shall be subject to obtaining clearance from the first respondent on culmination of the proceedings as above.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the first respondent for further steps.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd