

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 3139 of 2015 (N)

PETITIONER :

**VASUDEVAN PILLAI,
SO.RAMAKRISHNA PANICKER, AGED 62 YEARS,
THAZHATHETHIL HOUSE,KUZHICKALA P.O.,
MALLAPUZHASSERI VILLAGE,
KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS:-

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
PATHANAMTHITTA DISTRICT - 689 644.**
- 2. THE REVENUE DIVISIONAL OFFICER,
ADOOR, PATHANAMTHITTA DISTRICT - 689 644.**
- 3. THE DISTRICT COLLECTOR,
PATHANAMTHITTA DISTRICT - 689 644.**

R1 TO R3 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE BUILDING PERMIT DATED 14.08.2014 ISSUED BY THE SECRETARY, PATHANAMTHITTA MUNICIPALITY.
- EXHIBIT P2. TRUE PHOTOGRAPHS OF THE WASTE OF DEMOLISHED BUILDING STORED IN THE PREMISES OF PETITIONER.
- EXHIBIT P3. TRUE PHOTOGRAPHS OF THE EARTH REMOVED FROM THE PROPERTY BY DIGGING A TRENCH FOR CONSTRUCTION OF BASEMENT.
- EXHIBIT P4. TRUE COPY OF THE REPORT WITHOUT DATE SUBMITTED BY THE VILLAGE OFFICER BEFORE THE TAHASILDAR, KOZHENCHERRY.
- EXHIBIT P5. TRUE COPY OF THE REPORT SUBMITTED BY THE TAHASILDAR, KOZHENCHERRY BEFORE THE SECOND RESPONDENT DATED 20.11.2014.
- EXHIBIT P6. TRUE COPY OF REPORT DATED 07.01.2015 SUBMITTED BY THE SECOND RESPONDENT BEFORE THE THIRD RESPONDENT IN CONNECTION WITH THE SUBJECT MATTER.
- EXHIBIT P7. TRUE COPY OF THE APPLICATION DATED 13.11.2014 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.
- EXHIBIT P8. TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 19.12.2014 IN W.P(C)NO.34717 OF 2014.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 3139 of 2015

Dated this the 4th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"1. Issue a writ of mandamus or any other appropriate writ, order or direction directing the first respondent to issue sufficient P forms to the petitioner to transport earth removed by him for the purpose of construction of basement of building and also for transportation of waste of a demolished building.

2. Direct the first respondent to conduct a site inspection and gave an opportunity to the petitioner for compounding the offence, if any offence is find out against him and thereafter issue sufficient P forms to the petitioner for transportation of earth stored in the premises after receipt of compounding fee and sufficient royalty.

3. Declare that no permit or clearance certificate from the Environmental Impact Assessment Authority is required to remove earth from the trenches for the purpose of construction of basement of building on the strength of a building permit.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. It is brought to the notice of this Court that, the grievance of the petitioner is mainly with regard to the non consideration of Ext.P7 request made by the petitioner to enable him to transport the debris

collected and stored in the premises pursuant to the demolition of an old dilapidated building; and also the ordinary earth excavated in furtherance to the steps taken for construction of a commercial building.

4. The learned Government Pleader points out that, going by the admitted pleadings and proceedings, the construction that is sought to be effected by the petitioner is of a commercial building and the maximum excavation permitted based on the amended provisions of the KMMC Rules stands already crossed.

5. The learned counsel for the petitioner submits that the petitioner is ready to compound the offence and is ready to satisfy the royalty, if at all any excess quantity is there.

6. In the said circumstance, the 1st respondent is directed to consider Ext.P7 and pass appropriate orders after affording an opportunity of hearing to the petitioner, also after conducting a spot inspection at the earliest, at any rate, within 'three weeks' from the date of receipt of a copy of this judgment.

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

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