

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C) .No. 3387 of 2015 (W)

PETITIONER(S) :

MARIYAMMA AGED 45 YEARS
S/O.JOY, MANGALASSERIL, MAMALASSERI P.O.
ERNAKULAM DISTRICT.

BY ADV. SRI.S.SHAJAHAN (ADOOR)

RESPONDENT(S) :

1. THE DISTRICT GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY
ERNAKULAM DISTRICT-686562.

2. THE DIRECTOR
MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY
KESAVADASAPURAM, PATAM, THIRUVANANTHAPURAM-695001.

3. THE STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
INDUSTRIAL DEPARTMENT, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIATE, THIRUVANANTHPURAM-695001.

BY SR. GOVERNMENT PLEADER MR. MUHAMMED SHAFI M.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .No. 3387 of 2015 (W)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE NO OBJECTION CERTIFICATE OF THE
SAID PROPERTY OF THE PETITIONER ISSUED BY THE
SECRETARY, PAMPAKUDA DATED 21.1.2015

EXT.P2 : TRUE COPY OF THE SAID G.O.(P)No.93/2014/ID
DATED 30.6.2014

/TRUE COPY/

P.S. TO JUDGE.

Dated this the 5th February, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

"i) issue a writ of mandamus or any other appropriate writ, order or directing the first respondent to issue sufficient P forms to the petitioner for transporting the earth removing by him on the basis of Exhibit P1 building permit after conducting a site inspection and after receipt of the royalty fixed by the first respondent within a reasonable period which this Honourable Court may deem and proper in the interest of justice and circumstances of the case .

ii) declare that no licence or permit from the first respondent is required for extracting ordinary earth for the purpose of construction of residential building having plinth area upto 300 Sq meter as per Exhibit P2 Government Order.

iii) issue such other writ, orders or directions which this Honourable Court may deem fit and proper in the interest of justice and circumstances of the case."

2. The case of the petitioner is that, on the strength of Ext.P1 permit, the petitioner levelled the property by removing red earth for construction of a residential building. But when the

petitioner approached the first respondent/District Geologist with a request for issuance of P-Form to transport the earth from his property, it was refused to be acted upon.

3. Heard the learned Government Pleader as well.

4. Considering the facts and circumstances, this Court finds that in view of Ext.P2 Government Notification-G.O.(P) NO.93/2014/ID dated 30.06.2014, no permit is required for extracting ordinary earth, if there is a valid building permit. But, for the purpose of transporting ordinary earth, P-Form is necessary. Accordingly, the first respondent/District Geologist is directed to issue necessary P-Form, on being satisfied with the genuineness of the claim of the petitioner based on Ext.P1 building permit, without insisting for 'NOC', which shall be done at the earliest, at any rate, within 'ten days' from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the first respondent/District Geologist for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE