

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. 3631 of 2015 (D)

PETITIONER(S):

- 1. AMBIKA DEVI, AGED 75 YEARS,
KIZHAKKUMKARA HOUSE (THAKADIPURATHU)
MALLAPUZHASSERY, ELANTHOOR, NELLIKKALA
PATHANAMTHITTA DISTRICT.**
- 2. SREENIVASAN
KIZHAKKUMKARA HOUSE (THAKADIPURATHU)
MALLAPUZHASSERY, ELANTHOOR, NELLIKKALA
PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT OF KERALA, GOVT.SECRETARIAT
THIRUVANANTHAPURAM-695001.**
- 2. DISTRICT COLLECTOR
PATHANAMTHITTA-689645.**
- 3. THE SENIOR GEOLOGIST
MINING AND GEOLOGY, MINI CIVIL STATION, ARANMULA
PATHANAMTHITTA-689547.**

BY SENIOR GOVERNMENT PLEADER SRI.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:**

PJ

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APPENDIX

PETITIONERS' EXHIBITS

**P1: COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER,
DATED 25/2/15**

P2: COPY OF THE BUILDING PERMIT ISSUED BY THE PANCHAYATH DAED 12/12/15

P3: COPY OF THE G.O.(P)93/2014/ID DATED 30/6/14

P4: COPY OF THE JUDGMENT DATED 23/1/15 IN WPC.2420/14

P.R. RAMACHANDRA MENON, J.

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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 direction commanding the 3rd respondent, to issue P-Form to the petitioner to transport the red earth from his property and renew Ext.P5 permission without insisting NOC works permit/requisition letter and details of vehicles.

ii) to declare that details of vehicles, NOC and works permit/requisition letter are not required for getting P-Form on the basis of Ext.P3 government order or under Kerala Minor Mineral Concession Rules, while removing red earth for the purpose of construction of residential building and commercial building having 300 M2 area and petitioner can use any number of vehicles; and

iii) issue such other appropriate writ, order or direction as this Hon'ble Court deem fit and proper, in the circumstances of the case."

2. The case of the petitioner is that, on the strength of Ext.P2 permit, the petitioner levelled the property by removing red earth for construction of a residential building. But when the petitioner approached the third respondent/Senior 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.P3 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 third respondent/Senior Geologist is directed to issue necessary P-Form, on being satisfied with the genuineness of the claim of the petitioner based on Ext.P2 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

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before the third respondent/Senior Geologist for further steps.

The writ petition is disposed of.

**P.R.RAMACHANDRA MENON
JUDGE**

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