

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. 3632 of 2015 (D)

PETITIONER(S):

**JOHN K.VARGHESE,
KOCHUVILAYIL HOUSE (PREETHI BHAVAN), CHITTOOR,
PATHANAMTHITTA.**

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

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. DISTRICT COLLECTOR,
PATHANAMTHITTA - 689 645.**
- 3. THE SENIOR GEOLOGY,
MINING AND GEOLOGY, MINI CIVIL STATION, ARANMULA,
PATHANAMTHITTA - 689 547.**

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

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

msv/

WP(C).No. 3632 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICER.

EXT.P2: TRUE COPY OF THE BUILDING PERMIT ISSUED BY THE PANCHAYATH.

EXT.P3: TRUE COPY OF THE G.O.(P) 93/2014/ID DATED 30.6.2014.

EXT.P4: TRUE COPY OF THE PERMISSION ISSUED BY THE 3RD RESPONDENT.

EXT.P5: TRUE COPY OF THE APPLICATION DATED 28.1.2015.

EXT.P6: TRUE COPY OF THE JUDGMENT DATED 23.1.2015 IN WP(C) NO.2420/2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

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 1604 MT 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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