

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No.3700 of 2015 (J)

PETITIONER:

**JOHNSON,S/O.OUSEPH,AGED 53 YEARS,
VITHAYATHIL,KORATTY EAST,KIZHAKKEMURIYIL VILLAGE,
CHALAKKUDY TALUK,THRISSUR DISTRICT**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS:

- 1. THE DISTRICT GEOLOGIST,OFFICE OF DISTRICT GEOLOGY,
THRISSUR DISTRICT - 680001**
- 2. THE AGRICULTURAL OFFICER,KRISHI BHAVAN,PARIYARAM,
MOTHIRAKANNY P.O,PIN - 680 724,THRISSUR DISTRICT.**
- 3. THE DIRECTOR,MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM,PATTAM,THIRUVANANTHAPURAM - 695001.**
- 4. THE STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,INDUSTRIAL DEPARTMENT,
GOVERNMENT OF KERALA,GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695001.**
- 5. THE DISTRICT COLLECTOR,CIVIL STATION,
THRISSUR DISTRICT- 680001.**
- 6. THE VILLAGE OFFICER,PARIYARAM VILLAGE,
CHALAKKUDY TALUK,THRISSUR DISTRICT - 680001.**

BY GOVT. PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

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APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1-TRUE COPY OF THE TITLE DEED OF THE PROPERTY OF THE
PETITIONER DATED 31.03.2010 REGISTERED AS DOCUMENT NO.1366 OF
2010 OF CHALAKKUDY SUB REGISTRAR OFFICE.**

**EXT.P2-TRUE PHOTOGRAPHS OF THE EXISTING POND AND EARTH AND CLAY
DIGGED AND STORED IN FOUR SIDES OF THE POND.**

**EXT.P3-TRUE COPY OF HTE CERTIFICATE ISSUED BY THE SECOND
RESPONDENT DATED 9.1.2015.**

**EXT.P4-TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE HTE FIRST RESPONDENT DATED 15.1.2015.**

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON J.

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Dated, this the 20th day of February, 2015

JUDGMENT

The prayers raised are in the following terms :

"1. Issue a writ of mandamus or other appropriate writ, order or direction, directing the first respondent to permit the petitioner to compound the offence of digging pond and storing of earth/clay on the sides of the property by remitting the compounding fee and sufficient royalty.

2. Direct the first respondent to issue permit and sufficient P forms to transport the earth/clay stored in the sides of the pond situated in the property of petitioner after receipt of compounding fee and royalty.

3. Issue such other writ or 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 the property concerned herein was purchased as per Ext. P1 deed and he is enjoying the same with absolute ownership, exclusive possession and clear and marketable title. A pond was in existence in the said property at the

time of purchase itself. The location of the pond is reflected from Ext. P2 photograph. The factual position has been certified by the second respondent as well, as per Ext. P3. So as to make use of the pond for irrigation, the petitioner wants to remove the clay, which has already been excavated and is lying in deposit on the sides of the pond. With this intent the petitioner approached the first respondent by filing application for issuance of necessary 'P Form'. It was refused to be accepted stating that there was no Environmental clearance and further that the petitioner has already committed offence under the Mines and Minerals (Development and Regulation) Act, 1957 and the Kerala Minor Mineral Concession Rules, 1967. According to the petitioner, no environmental clearance is necessary, as the pond was in existence for quite long and further that such a stipulation came to be incorporated only in the year 2014. Even otherwise, the petitioner is ready to have the offence compounded, if any, and the request is for a direction to accept the application for the same.

3. Heard the learned Government Pleader as well.

4. In the said circumstances, the first respondent is directed to accept application of the petitioner for issuance of P Form, along with the application, if any, to be preferred by the petitioner for

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compounding the offence forthwith and pass appropriate orders thereon in accordance with law, as expeditiously as possible, at any rate, within 'two weeks' from the date of receipt of the applications as above.

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

Sd/-

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

kmd