

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 3752 of 2015 (T)

PETITIONER:

**THOMAS, S/O.LATE OUSEPH, AGED 68 YEARS,
CHELLANTHARA HOUSE, VAZLOOR MURI,
VAZHOOR VILLAGE, KOTTAYAM TALUK,
KOTTAYAM DISTRICT.**

BY ADV. SRI.AJITH MURALI

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM-695001.**
- 2. THE DISTRICT COLLECTOR,
KOTTAYAM, KOTTAYAM DISTRICT-686001.**
- 3. THE REVENUE DIVISIONAL OFFICER,
KOTTAYAM, KOTTAYAM DISTRICT-686001.**
- 4. THE VILLAGE OFFICER,
VAZHOOR VILLAGE, KOTTAYAM DISTRICT-686001.**
- 5. THE SECRETARY,
VAZHOOR GRAMA PANCHAYATH, KOTTAYAM TALUK,
KOTTAYAM DISTRICT-686001.**
- 6. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
KOTTAYAM DISTRICT-686001.**

R1 TO R4 & R6 BY SENIOR GOVT. PLEADER SRI.MUHAMMED SHAFI.M

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 3752 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 :** THE TRUE COPY OF THE BUILDING PERMIT NO.A3 4482/14
DATED 1-1-2015 ISSUED BY THE SECRETARY OF VAZHOOR GRAMA
PANCHAYATH.
- EXT.P2 :** THE TRUE COPY OF THE GOVERNMENT ORDER IN GO(P)93/2014/ID
DATED 30-6-2014.
- EXT.P3 :** THE TRUE COPY OF THE TAX RECEIPT ISSUED BY THE
4TH RESPONDENT DATED 4-9-2014.
- EXT.P4 :** THE TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
DATED 19-9-2014 IN WPC.NO. 24217/2014.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 3752 of 2015

Dated this the 11th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i. Issue a writ of mandamus or any other appropriate writ order of direction, commanding 6th respondent to issue P-form to the petitioner to transport red earth from the property in Re-sy No.77/3 in Block No.26 of Vazhoor Village at Kottayam Taluk under the provisions of the Kerala Minor Mineral Concession Rule.

ii. To declare that no NOC from the revenue department is required for getting P-form on the basis of Exhibit P2 government order or under Kerala Minor Mineral Concession Rule, while removing red earth for purpose of construction of residential building and commercial building having 300 M2 area and the NOC is applicable only in the case of commercial permits."

2. The learned counsel for the petitioner submits that, by virtue of Rule 8 (1B) of the KMMC Rules as amended, the petitioner is entitled to transport ordinary earth from the property where building is intended to put up. The position as above stands clarified by the Government as well as per Ext.P2 G.O dated 30.06.2014. Since the request made by the petitioner has not been positively acted upon, the petitioner is constrained to approach this Court with the prayers as above.

3. Heard the learned Government Pleader as well, who points out that, the building admittedly is a commercial building which exceeds the maximum area of 300 sq.m as stipulated in the above Rules which is evident from Ext.P1. This being the position, the petitioner is not entitled to have the relief sought for.

4. The learned counsel for the petitioner submits that, the petitioner is not pressing the relief in the case of Ground floor (shed 2) having an extent of 222.3 sq.m. and the relief is confined to Ground Floor (Shed 1) having equal area.

5. In the said circumstance, there will be a direction to the 6th respondent to consider the application preferred by the petitioner, if any, for granting P-forms for transporting the requisite quantity of ordinary earth, granting the relief, confining the same strictly to the area of 222.3 sq.m (Ground floor shed 1) mentioned in Ext.P1. The proceedings as above shall be finalized at the earliest, at any rate, within 'one month' 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.**