

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 5870 of 2015 (G)

PETITIONER:

**RIYA P.R., D/O. RAJAN, AGED 35 YEARS,
PARAYIRIKKUNNATIL HOUSE, KOTTA MURI,
KULANABDA VILLAGE, KOZHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.AJITH MURALI.

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,
PATHANAMTHITTA DISTRICT.**
- 3. THE REVENUE DIVISIONAL OFFICER,
KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT-689 645.**
- 4. THE VILLAGE OFFICER,
KULANADA VILLAGE, KOZHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT-689 645.**
- 5. THE SECRETARY,
KULANADA GRAMA PANCHAYATH,
PATHANAMTHITTA DISTRICT-689 645.**
- 6. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
PATHANAMTHITTA DISTRICT-689 645.**

R1 TO R4 & R5 BY GOVT. PLEADER SRI.K.C. VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 5870 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1- THE TRUE COPY OF THE BUILDING PERMIT NO. M4-3125/2014
DATED 08-01-2015 ISSUED BY THE SECRETARY OF KULANADA
GRAMA PANCHAYATH.**

**EXHIBIT P2- THE TRUE COPY OF THE GOVERNMENT ORDER IN
G.O.(P)93/2014/ID DATED 30-06-2014.**

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 5870 OF 2015
.....

Dated this the 25th 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 of direction commanding 6th respondent to issue P-Form to the petitioner to transport red earth from the property in Re-Sy No.12/10-1-3,12/9-2 in Block No.5 of Kulanada Village at Kozhenherry Taluk under the provisions of the Kerala Minor Mineral Concession Rule.

ii) To declare that no NOC from the revenue department is required fro getting P-form on the basis of Exhibit P2 Government order or under Kerala Minor Minerala Concession Rules, 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.

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.P1 building permit, the petitioner levelled the property by

removing red earth for construction of a poultry shed.. But when the petitioner approached the sixth 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. By virtue of Rule 14 of the Kerala Minor Mineral Concession Rules, 2015 the persons doing construction of residential building including flats or commercial buildings having a plinth area of 300 square metres if the owner of the land obtained a prior valid permit for construction of such building from the Local Self Government authorities concerned, are exempted from obtaining quarrying permit under the Rules. The said Rules reads as follows:

"14. Quarrying permit for Ordinary earth: (1) *A quarrying permit under these rules shall be obtained for extraction of ordinary earth used for filling or levelling purposes in construction of embankments, roads, railways or buildings in Form N:*

(2) *Notwithstanding anything contained in sub-rule (1), no quarrying permit is required under these rules for extraction of ordinary earth in connection with the*

construction of residential buildings including flats or commercial buildings having a plinth area of 300 square metres if the owner of the land obtained a prior valid permit for construction of such building from the Local Self Government authorities concerned;

Provided that in cases where transportation of ordinary earth is required, the owner shall pay royalty for the quantity to be transported and shall obtain mineral transit passes under the Kerala State Minerals (Prevention of illegal mining, storage and transportation) Rules, 2015 from the competent authority;

Provided further that the competent authority shall not issue mineral transit passes for removal of ordinary earth exceeding the quantity needed to be extracted, as ascertained by it through a site inspection."

5. Accordingly, the sixth respondent/Senior Geologist is directed to issue 'Mineral Transit Pass' in Form O(A), on being satisfied with the genuineness of the claim of the petitioner based on Ext.P1 building permit, without insisting for 'NOC'/Mining permit; in accordance with law, 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 sixth respondent/ Senior Geologist for further steps.

The writ petition is disposed of.

**P.R.RAMACHANDRA MENON
JUDGE**

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