

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936**

**WP(C).No. 6062 of 2015 (G)**  
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**PETITIONER :**  
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**JUSTIN JOHNSON,  
AINY VILA VEEDU, ELANTHOOR P.O.,  
PATHANAMTHITTA DISTRICT.**

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

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

**R1 TO R3 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**sts**

**WP(C).No. 6062 of 2015 (G)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- P1- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER.**
- P2- TRUE COPY OF THE BUILDING PERMIT ISSUED BY THE PANCHAYATH.**
- P3- TRUE COPY OF THE G.O(P) 93/2014/ID DATED 30.6.2014**
- P4- TRUE COPY OF THE JUDGMENT DATED 5.2.2015 IN WPC NO.3632/2015**

**RESPONDENT(S)' EXHIBITS:** **NIL**  
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**/TRUE COPY/**

**P.A.TO.JUDGE**

**sts**

**P.R. RAMACHANDRA MENON, J.**

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**W.P.(C)No.6062 OF 2015**  
.....

**Dated this the 26<sup>th</sup> February, 2015**

**J U D G M E N T**

The case of the petitioner is that, on the strength of Ext.P2 building permit, the petitioner levelled the property by removing ordinary earth for construction of a residential building. But when the petitioner approached the third respondent/ Senior Geologist with a request for issuance of Mineral Transit pass to transport the earth from his property, it was refused to be acted upon.

2. Heard the learned Government Pleader as well.

3. 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 upto 300 square metres are exempted from obtaining quarrying permit under the Rules, if the owner of the land has obtained a prior valid permit for construction of such building from the concerned Local Self Government authority. 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."*

4. In the above facts and circumstances, the third

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 petitioners based on Ext.P2 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 third respondent/ Senior Geologist for further steps.

The writ petition is disposed of.

**P.R.RAMACHANDRA MENON**  
**JUDGE**

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