

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 6146 of 2015 (P)

PETITIONER :

**KOTTAPADAM BADAR JAMA-ATH MOSQUE
KOTTAPPADAM, PATTAMBI TALUK
PALAKKAD DISTRICT
REPRESENTED BY ITS PRESIDENT AKBAR
S/O.HAMSA, AGED 33 YEARS, ACHARTH HOUSE
KARIMALA P.O., PATTITHARA VILLAGE,
PATTAMBI TALUK, PALAKKAD DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

- 1. THE DISTRICT GEOLOGIST
OFFICE OF DISTRICT GEOLOGY,
PALAKKAD DISTRICT-680 001.**
- 2. THE DIRECTOR
MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY
KESAVADASAPURAM, PATTAM,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695001.**

R1 TO R3 BY GOVT. PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

WP(C).No. 6146 of 2015 (P)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1 - TRUE COPY OF THE TAX RECEIPT DATED 4-2-2015 ISSUED BY THE
 VILLAGE OFFICER, PATTITHARA VILLAGE.**
- EXT.P2 - TRUE PHOTOGRAPHS OF LATERITE SOIL KEEPING IN THE PREMISES
 OF MOSQUE.**
- EXT.P3 - TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
 DATED 2-2-2015 BEFORE THE FIRST RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 6146 of 2015

Dated this the 4th day of March, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers;

- “1. Issue a writ of mandamus or other appropriate writ, order or direction, directing the first respondent to issue sufficient P forms to the petitioner to transport laterite earth stored in the premises of mosque after receipt of sufficient royalty.*
- 2. Declare that no environmental clearance or mining permit is required to transport laterite earth already removed by the petitioner.*
- 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 learned counsel for the petitioner submits that, in connection with the excavation of laterite stones, much laterite earth/waste has been accumulated which is remaining in the premises of the 'Mosque'. The same is intended to be transported, for which 'P form' is necessary. But the request is not acceded to by the 1st respondent, which made the petitioner to approach this Court by filing the writ petition. The learned counsel also points out that, by virtue of the mandate of Rule 106

of the Kerala Minor Mineral Concession Rules, 2015, it is an exempted activity and no Environmental Clearance is necessary.

3. The learned Government Pleader appearing for the respondents submits that, the idea and understanding of the petitioner is thoroughly wrong and misconceived. Rule 106 of the Kerala Minor Mineral Concession Rules, 2015, is not at all attracted and there is no case that the excavation was for the purpose of construction of a 'Mosque', though the activity was done in the premises of the Mosque. That apart, in connection with the excavation of laterite stones, payment of royalty is involved, which has not been satisfied. The petitioner is however is at liberty to compound the offence by virtue of the enabling provisions under the statute. Though the petitioner has got a case that, the excavation was done years back, the factual position is sought to be disputed by the learned Government Pleader, with reference to the position revealed from Ext.P2 series photographs and the information received in this regard. The learned counsel for the petitioner submits that the petitioner is ready to compound the offence and is prepared to satisfy the royalty, if any.

4. In the said circumstances, the 1st respondent is directed to conduct a spot inspection with notice to the petitioner and intimate the petitioner as to the liability to be cleared, both towards the 'royalty' as well as the 'compounding fee'. Subject to satisfaction of the said amount, the petitioner shall be issued necessary 'Form OA', as per the New Rules - KMMC Rules 2015. It shall be done, at the earliest, at any rate, within 'one month' from the date of receipt of a copy of the judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the 1st respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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