

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 7081 of 2015 (I)

PETITIONER :

**ANTONY, S/O.JOSEPH,AGED 52 YEARS,
MALEKUDY HOUSE, CHALAKKUDY, THRISSUR,
REPRESENTED BY POWER OF ATTORNEY HOLDER SOJAN,
S/O.JOHNY, AGED 41 YEARS,CHETHALAN, EAST CHALAKKUDY DESOM,
EAST CHALAKKUDY VILLAGE, CHALAKKUDY TALUK,
THRISSUR DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT -680 001**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM, THIRUVANANTHAPURAM,
PIN-695 001**
- 3. THE STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695 001**
- 4. UNION OF INDIA, REPRESENTED BY SECRETARY, MINING AND
GEOLOGY DEPARTMENT, NEW DELHI -110 001**

**R1 TO R3 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE
R4 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 7081 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE BUILDING PERMIT DATED 21.01.2015 ISSUED BY
THE CHALAKKUDY MUNICIPALITY TO THE PETITIONER**

**EXHIBIT P2: 3D EFFECT PHOTOGRAPHS OF THE PROPOSED BUILDING OF
PETITIONER**

**EXHIBIT P3: TRUE COPY OF THE APPLICATION DATED 24.1.2015 SUBMITTED BY
THE PETITIONER BEFORE THE FIRST RESPONENT**

**EXHIBIT P4: TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 7081 of 2015

Dated this the 27th 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 direction or order directing the first respondent to issue sufficient P forms to the petitioner for transporting earth stored in his premises which is removed from the basement floor of the building after receipt of sufficient royalty without insisting environmental clearance certificate from the Kerala State Environmental Impact assessment Authority and no objection certificate from the District Collector.*
- 2. Direct the first respondent to give an opportunity to the petitioner to compound the offence as provided under Rule 60(A)(1) of the Kerala Minor Mineral Concession rules 1967.*
- 3. Direct the fourth respondent to appoint an authority to issue an authority to issue environment clearance certificate.*
- 4. 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 the petitioner is having Ext.P1 Building Permit dated 21.01.2015 issued by the concerned Local Authority and on the strength of

that permit, the petitioner has removed the ordinary earth in the property which now sought to be transported for which issuance of MTP is sought for. The delay on the part of the 1st respondent in considering Ext.P3, made the petitioner to approach this Court by filing the writ petition.

3. A statement has been filed on behalf of the 1st respondent; paragraph 3 of which reads as follows:

"3. On verification of the approved building plan submitted by the petitioner, it is clearly understood that the plinth area of the above commercial building is 1899.62 M2 and in the above circumstances, quarrying permit is required for extraction and removal of ordinary earth. By violating the above order, the petitioner has already extracted 1000 M3 of ordinary earth from the site. For procuring quarrying permit, environmental clearance from the State Environmental Impact Assessment Authority and No Objection Certificate from the District Collector is mandatory. In this context, this office will consider the petitioner's fresh application for quarrying permit of ordinary earth on submission of the Environmental Clearance Certificate issued by the State Environmental Impact Assessment Authority, Kerala and NOC from the District Collector. It is in these circumstances that this respondent insisted for the production of the said certificates which is mandatory in the case of extraction and removal of minerals from the area. It is also submitted that a site inspection was

carried out on the basis of the complaints received from the locals and it is found that about 1000M3 of earth has already been extracted and stored in the site itself and if the petitioner is willing to compound the offence, this authority is ready to permit him to compound the same on payment to royalty and fines as provided for in the rules."

4. The learned Government Pleader points out with reference to the contents of the statement and instructions received that, the petitioner has removed huge quantity of earth without any regard to the Rule of law as stated in the statement and as such there is clear violation of the relevant provisions of the KMMC Rules. The learned counsel for the petitioner submits that, the petitioner is ready to compound the offence and is prepared to pay royalty for the quantity already excavated.

5. In the said circumstances, 1st respondent is directed to consider Ext.P3 application and pass appropriate orders also in the light of the willingness expressed from the part of the petitioner to satisfy the royalty and to pay the compounding fee. The proceedings shall be finalised at the earliest, at any rate, within 'one month' from the date of receipt of a copy of this judgment. It is made clear that, no further removal of ordinary earth shall be made by the petitioner without getting proper

Environmental Clearance from the competent authority.

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

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Pn