

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 7183 of 2015 (W)

PETITIONER(S):

**A.V. POULOSE AGED 75 YEARS
S/O VARGHESE , ATHIRAPANAYIL
PULLUVAZHY PO, RAYAMANGALAM VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY,
ERNAKULAM DISTRICT - 682 030**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY
KDESAVADASAPURAM, PATTAM,
THIRUVANANTHAPURAM - 695 001**
- 3. THE STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001**

BY SRI JOSEPH GEORGE, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 7183 of 2015 (W)

APPENDIX

PETITIONER'S EXHIBITS:

- P1: COPY OF THE BUILDING PERMIT 02.03.2015 ISSUED BY THE SECRETARY,
RAYAMANGALAM GRAMA PANCHAYATH**
- P2: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE
FIRST RESPONDENT DATED 03.03.2015**
- P3: COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 30.01.2015
IN WPC NO.3047 OF 2015**

RESPONDENTS' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

P.R. RAMACHANDRA MENON, J.

W.P.(C).No.7183 of 2015

Dated this the 6th day of March, 2015

JUDGMENT

The case of the petitioners is that, on the strength of Ext.P1 building permit, the petitioners levelled the property by removing ordinary earth for construction of a residential house. But when the petitioners approached the first respondent/ District Geologist with a request for issuance of Mineral Transit pass to transport the earth from their 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 first respondent/District 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.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 petitioners shall produce a copy of this judgment along with a copy of the writ petition before the first respondent/District Geologist for further steps.

The writ petition is disposed of.

SD/-
P.R. RAMACHANDRA MENON,
JUDGE

jv