

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 8395 of 2015 (Y)

PETITIONER :

**ROMEO VARGHESE, AGED 58 YEARS
S/O.VARGHESE, BRAHMAKULAM, PERINGAVU P.O,
THRISSUR TALUK, THRISSUR DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS :

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT-680001.**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY, KESAVADASAPURAM,
PATTAM, THIRUVANANTHAPURAM 695001.**
- 3. THE STATE OF KERALA REPRESENTED BY SECRETARY OF GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695001.**

BY GOVERNMENT PLEADER SRI. JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1:- TRUE COPY OF THE BUILDING PERMIT DATED 7.09.2013 ISSUED BY THE SECRETARY, ADATT GRAMA PANCHAYATH.
- EXHIBIT P2:- TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE DISTRICT COLLECTOR, THRISSUR DISTRICT TO THE PETITIONER DATED 26.2.2014 .
- EXHIBIT P3:- TRUE COPY OF THE ENVIRONMENTAL CLEARANCE CERTIFICATE ISSUED BY THE KERALA STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY DATED 1.8.2014.
- EXHIBIT P4:- TRUE COPY OF THE MINING PERMIT DATED 29.9.2014 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P5:- TRUE COPY OF THE ORDER OF REVENUE DIVISIONAL OFFICER, THRISSUR DATED 10.2.2014.
- EXHIBIT P6:- TRUE COPY OF THE INTERIM ORDER OF THIS HONOURABLE COURT DATED 16.10.2014 IN WPC NO.27022/2014.
- EXHIBIT P7:- TRUE COPY OF THE REPORT SUBMITTED BY THE DIRECTOR OF DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE WITHOUT DATE.
- EXHIBIT P8:- TRUE COPY OF REPORT SUBMITTED BY TH REVENUE DIVISIONAL OFFICER IN WPC NO.27022/2014 DATED 28.11.2014.
- EXHIBIT P9:- TRUE COPY OF THE INTERIM ORDER OF THIS HONORABLE COURT DATED 16.01.2015 IN WPC NO.27022/2014.
- EXHIBIT P10:- TRUE PHOTOGRAPHS OF THE EARTH REMOVED AND STORED IN THE PREMISES OF PETITIONER.
- EXHIBIT P11:- TRUE COPY OF THE SAID APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 09.03.2015.

RESPONDENT(S)' EXHIBITS : **NIL.**

//TRUE COPY//

P.A. TO JUDGE

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 8395 of 2015

Dated this the 23rd 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 any other appropriate writ, order or direction directing the first respondent to issue sufficient O(A) forms to the petitioner for transportation of ordinary earth from his property which was removed by the petitioner on the strength of exhibit P1 to P4 permits.*
- 2. Declare that environmental clearance certificate from the Kerala State Environmental Impact Assessment Authority or no objection certificate from the district collector is not required for transportation of earth and it is required only for extraction.*
- 3. Issue such other writ, 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 points out that, the petitioner has obtained Ext.P1 Building Permit dated 07.09.2013 issued by the concerned Local Authority. On the strength of the said permit, some ordinary earth was sought to be removed from the property for effecting the construction. The petitioner also obtained Ext.P2 No Objection Certificate dated

26.02.2014 from the District Collector apart from Ext.P3 Environmental Clearance issued by the competent authority on 01.08.2014 and Ext.P4 Mining Permit dated 29.09.2014 issued by the 1st respondent. By virtue of the above documents, the petitioner excavated the ordinary earth. But the same could not be transported because of some unreasonable restrictions/resistance from different corners. A writ petition also came to be filed before this Court as WP(C) No.27022/2014, by some persons who were not in good terms with the petitioner. It is stated that, an interim order of 'status quo' was issued, which was subsequently vacated as per Ext.P9. But in the meanwhile, the Permit as well as the Environmental Clearance expired and the petitioner was prevented from removing the excavated earth referring to expiry of the permit/Environmental Clearance. This made the petitioner to approach this Court by filing the writ petition.

3. The learned Government Pleader submits on instructions that, a spot inspection was made by the 1st respondent on 18.03.2015 when it was found that about 360 M³ of ordinary earth was excavated and stored in the premises.

4. In the said circumstances, this Court finds that the petitioner has to be permitted to transport the said extent. Accordingly, there will be a direction to the 1st respondent to issue necessary MTP in Form O(A), without insisting for NOC or Environmental Clearance, to meet the requisite extent, so as to enable the petitioner to transport the above excavated earth. It shall be done, at the earliest, at any rate, within 'ten day's from the date of receipt of a copy of the judgment. It is made clear that no further excavation shall be pursued by the petitioner in the property concerned.

The writ petition stands disposed of. 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.