

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. 9698 of 2015 (J)

PETITIONERS:

1. JAYARAJAN, AGED 44 YEARS, S/O. NARAYANAN,
VAZHAVILAYIL HOUSE, MEKOZHOO MURI,
MYLAPRA VILLAGE, KONNI TALUK, PATHANAMTHITTA DISTRICT.
2. RETNAMMA, AGED 40 YEARS, W/O. JAYARAJAN,
VAZHAVILAYIL HOUSE, MEKOZHOO MURI,
MYLAPRA VILLAGE, KONNI TALUK, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.AJITH MURALI

RESPONDENTS:

1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE DISTRICT COLLECTOR,
PATHANAMTHITTA, PATHANAMTHITTA DISTRICT-689 645.
3. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
PATHANAMTHITTA DISTRICT-689 645.

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

**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. 9698 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- THE TRUE COPY OF THE BUILDING PERMIT NO. M3-263/15/DATED
05-03-2015 ISSUED BY THE SECRETARY OF MYLAPRA GRAMA
PANCHAYATH.**

**EXHIBIT P2- THE TRUE COPY OF THE GOVERNMENT ORDER IN G.O.(P) 93/2014/ID
DATED 30-06-2014.**

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

/TRUE COPY/

P.A.TO JUDGE

sts

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 9698 of 2015

Dated this the 27th day of March, 2015

JUDGMENT

The case of the petitioner is that, on the strength of Ext.P1 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, 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 petitioner 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 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.**