

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 9742 of 2015 (P)

PETITIONER :

**BABU,SHEEJOBHAVANAM, AGED 48 YEARS,
THUVAYOOR SOUTH.P.O., KADAMBHANAD,
PATHANAMTHITTA.**

**BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

RESPONDENT :

**SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
PATHANAMTHITTA-689 645**

BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.9742/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE TAX RECEIPT.**
- P2 COPY OF THE BUILDING PERMIT ISSUED BY THE KADAMBANADU PANCHAYATH AUTHORITIES.**
- P3 COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER.**
- P4 COPY OF THE LETTER ISSUED BY THE RESPONDENT TO ASST. ENGINEER KHUMBANAD GRAMA PANCHAYATH.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 9742 of 2015

Dated this the 26th day of March, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondent, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, who is the owner of 04.05 ares of property in Re-Survey No. 460/9-1 of Kadambanadu Village, having been desirous of constructing a house, obtained Exhibit P1 building permit. Based on Exhibit P3 application submitted by the petitioner, the respondent issued Exhibit P4 communication to the Assistant Engineer, Kadambanadu Grama Panchayat, to inspect the property and to ascertain the quantity of red earth to be removed. Contending that it is the respondent, who has to

visit the property and ascertain the red earth to be removed before it could issue O(A) form, the petitioner has filed the present writ petition.

3. As can be seen from the record, the building permit is granted for the construction of a cow shed in an extent of 25.22 square meters. It is not in dispute that it is the sole respondent, who is to take the necessary steps of physical inspection and assessment of the quantity of red earth to be removed before issuing O(A) form.

4. The learned Government Pleader has, however, submitted that the transport forms can be granted only concerning residential buildings.

5. Indeed, though Exhibit P2 building permit is granted for cow shed, this Court is of the opinion that it is an allied purpose relatable to residential use and by no stretch it can be stated to be for commercial use.

6. In the facts and circumstances, Exhibit P4 cannot be sustained, and is accordingly set aside.

7. This Court, consequently issues a direction to the respondent to subject the property to physical inspection, assess the quantity of red earth to be transported and

thereafter issue the necessary forms for the transport. Needless to observe that the respondent shall complete the entire exercise as expeditiously as possible, at any rate, within a period of 15 days from the date of receipt of a copy of this judgment.

With the above observations, this writ petition is disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-