

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. 9826 of 2015 (C)

PETITIONER(S):

**RAGHAVAN NAIR K.K., AGED 70 YEARS,
S/O.LATE PADMANAPHAN, VADUTHAKALIL HOUSE, ANICKADU MURI
ANICKADU VILLAGE, KOTTAYAM TALUK, KOTTAYAM DISTRICT.**

BY ADV. SRI.AJITH MURALI

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR,
KOTTAYAM, KOTTAYAM DISTRICT - 686 001.**
- 3. THE REVENUE DIVISIONAL OFFICER,
KOTTAYAM, KOTTAYAM DISTRICT - 686 001.**
- 4. THE VILLAGE OFFICER,
ANICKADU VILLAGE, KOTTAYAM DISTRICT - 686 001.**
- 5. THE SECRETARY,
PALICKATHODU GRAMA PANCHATH, KOTTAYAM TALUK,
KOTTAYAM DISTRICT - 686 001.**
- 6. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY, KOTTAYAM DISTRICT,
PIN - 686 001.**

BY 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:**

msv/

WP(C).No. 9826 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: THE TRUE COPY OF THE BUILDING PERMIT NO. A3-688/2015
DATED 11/03/2015 ISSUED BY THE SECRETARY OF PALLICKATHODU GRAMA
PANCHAYATH.**

**EXT.P2: THE TRUE COPY OF THE GOVERNMENT ORDER IN GO(P) 93/2014/ID
DATED 30/06/2014.**

**EXT.P3: THE TRUE COPY OF THE TAX RECEIPT ISSUED BY THE 4TH RESPONDENT
DATED 16/01/2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

P.R. RAMACHANDRA MENON, J.

=====

W.P.(C). No. 9826 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 6th 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, 6th 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 6th respondent/Senior Geologist for further steps.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE.**