

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 10192 of 2015 (Y)

PETITIONER(S):

**ABDUL SATHAR SAIT, AGED 70,
S/O HAJI HASSAN YAKKOOB SAIT, UPPUKOOTTIL HOUSE,
MUKKUKAVALA, PERINGALA, KAYAMKULAM,
PIN CODE -690502**

**BY ADVS.SRI.P.A.MOHAMMED SHAH
SRI.SOORAJ T.ELENJICKAL
SMT.P.M.MAZNA MANSOOR**

RESPONDENT(S):

- 1. THE GEOLOGIST,
DISTRICT OFFICE, DEPARTMENT OF MINING AND GEOLOGY,
ASRAMAM, KOLLAM-691002**
- 2. VILLAGE OFFICER,
PORUVAZHY VILLAGE, PORUVAZHY, AMBALATHUMBHAGOM,
KOLLAM DISTRICT-690520**
- 3. SUB INSPECTOR OF POLICE,
SOORANAD POLICE STATION, KOLLAM DIST-690522**

R BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD/

WP(C).No. 10192 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: THE TRUE COPY OF THE POSSESSION/LOCATION CERTIFICATE DATED
3/3/2015 ISSUED BY THE 2ND RESPONDENT.**

**EXHIBIT P2: THE TRUE COPY OF THE RELEVANT PAGE OF THANDAPER ACCOUNT
DATED 3/3/2015 ISSUED BY THE 2ND RESPONDENT.**

**EXHIBIT P3: THE TRUE COPY OF THE BUILDING PERMIT ISSUED BY THE
SECRETARY, PORUVAZHY GRAMA PANCHAYATH DATED 19/11/2014.**

EXHIBIT P4: TRUE COPY OF THE APPLICATION FILED IN FORM N DATED 24/3/2015

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 10192 of 2015

Dated this the 30th day of March, 2015

J U D G M E N T

The case of the petitioner is that, on the strength of Ext.P3 building permit, the petitioner levelled the property by removing ordinary earth for construction of a Library (which comes under group A2 Special Residential building). But when the petitioner approached the first respondent/ Geologist with a request for issuance of Mineral Transit pass to transport the earth from the 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, 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 petitioner based on Ext.P3 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 first respondent/District Geologist for further steps.

The writ petition is disposed of.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.