

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10580 of 2015 (V)

PETITIONER :

**ABOOBACKER,S/O.ABDULLAKUTTY HAJI, AGED 50 YEARS,
MANAMKANDATH, OTHALLOOR AMSOM ALAMKODE P.O.,
ALAMKODE VILLAGE, PONNANI TALUK, MALAPPURAM DISTRICT
REPRESENTED BY POWER OF ATTORNEY HOLDER MUHAMMED
RAFEEL, S/O. ABDUL KHADER, AGED 32 YEARS, POLLURVALAPPIL,
KAPPUR P.O., KAPPUR VILLAGE, PATTAMBI TALUK, PALAKKAD DISTRICT**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS :

- 1. THE DISTRICT GEOLOGIST DEPARTMENT OF
MINING AND GEOLOGY, MALAPPURAM, PIN - 685630.**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM, THIRUVANANTHAPURAM-695001.**
- + 3. THE STATE OF KERALA, REPRESENTED BY SECRETARY TO
GOVERNMENT, INDUSTRIES DEPARTMENT, GOVERNMENT OF
KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE TAX RECEIPT DT 3/6/2014 ISSUED BY THE VILLAGE OFFICER, ALAMKODE VILLAGE.
- P2: COPY OF THE FIELD SKETCH OF THE PROPERTY OF PETITIONER DT 12/12/2014 ISSUED BY THE VILLAGE OFFICER, ALAMKODE VILLAGE.
- P3: COPY OF THE LOCATION SKETCH DT 28/11/2014 ISSUED BY THE VILLAGE OFFICER, ALAMKODE VILLAGE.
- P4: COPY OF THE CERTIFICATE DT 25/11/2014 ISSUED BY THE VILLAGE OFFICER, ALAMKODE VILLAGE CETIFYING THAT THE SAID PROPERTY OF PETITIONER IS NOT ASSIGNED FOR OTHER PURPOSES AND IT IS NO ATTACHMENT ON THE SAID PROPERTY.
- P5: COPY OF THE APPLICATION DT 27/2/2015 SUBMITTED BY THE PETITIONER BEFORE THE R1.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.10580 of 2015

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Dated this the 31st day of March, 2015

JUDGMENT

The petitioner has approached this court with the following prayers:-

"1. Issue a writ of mandamus or any other writ, order or direction directing to the first respondent to issue permit and sufficient O(A) forms to the petitioner to extract and transport laterite building stone from his property covered by Exhibit P2 field sketch without insisting environmental clearance certificate from the Kerala State Environmental Impact Assessment Authority and mining plan within a reasonable period which this Honourable court may deem fit and proper in the interest of justice and circumstances of the case.

2. Declare that for extraction and transportation of laterite building stone mining plan and environmental clearance certificate from the Kerala State Environmental Impact Assessment Authority are not required as per Rule 9 of the Kerala Minor Mineral Concession Rules 2015."

2. The case of the petitioner is that, so as to extract and remove laterite building stones from the property which belongs to the petitioner, the 1st respondent is insisting to produce Enviornmental Clearance Certificate and Mining Plan. The learned counsel for the petitioner submits that the same is not

applicable to the petitioner in so far as there is an exemption by virtue of the mandate under the proviso to Rule 9(1) of the KMMC Rules, 2015.

3. Heard the learned Government Pleader as well. There is no dispute with regard to the legal position. In so far as the exercise being pursued by the petitioner is only with regard to the extraction or removal of the laterite stone, the first respondent is not justified in requiring the petitioner to produce Environmental Clearance Certificate and Mining Plan. As such, the petitioner is entitled to succeed. There will be direction to the 1st respondent to consider Ext.P5 application preferred by the petitioner and pass appropriate orders thereon without insisting for production of Environmental Clearance Certificate and Mining Plan, which shall be done at the earliest, at any rate within 'one month' from the date of receipt of a copy of the judgment. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent for further steps.

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