

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 10918 of 2015 (L)

PETITIONER:

**T.M.H.GRANITES, VARAVATTOOR,
PALLOOR.P.O., THALAPPALLY TALUK,
THRISSUR DISTRICT, REPRESENTED BY
MANAGING PARTNER MR.JAMSHID.T.H.,
S/O.T.M.ABDUL HAMEED KHAN, AGED 33 YEARS,
THATTATHAZHATH, THRITHALA VILLAGE,
PATTAMBI TALUK, PALAKKAD DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT - 680 001.**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1 : TRUE COPY OF LICENCE ISSUED BY THE SECRETARY,
DESHAMANGALAM GRAMA PANCHAYATH DATED 6.5.2014 TO THE
PETITIONER.**

**EXHIBIT P2 : TRUE COPY OF THE DEALERS LICENCE ISSUED BY THE FIRST
RESPONDENT TO THE PETITIONER DATED 10.11.2014.**

**EXHIBIT P3 : TRUE COPY OF THE CONSENT TO OPERATE DATED 22.2.2012 ISSUED
BY THE KERALA STATE POLLUTION CONTROL BOARD.**

**EXHIBIT P4 : TRUE PHOTOGRAPHS OF THE ORDINARY EARTH STORED IN THE
PREMISES OF PETITIONER.**

**EXHIBIT P5 : TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT DATED 10.3.2015.**

RESPONDENT'S EXHIBITS:

- NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.10918 of 2015

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Dated this the 8th day of April, 2015

JUDGMENT

Petitioner has approached this Court with the following prayers:-

"1. Issue a writ of mandamus of any other appropriate writ, order or direction directing the first respondent to issue sufficient O (A) forms to the petitioner for transportation of ordinary earth from his property which was removed by the petitioner for the purpose of metal crusher unit without insisting environmental clearance certificate from the Kerala State Environment Impact Assessment Authority and no objection certificate from the District Collector within a reasonable period which this honourable court may deem fit and proper in the interest of justice and circumstances of the case.

2. Direct the first respondent to grant an opportunity to the petitioner if any alleged offence against him in connection with the removal of earth and allow him to remit the royalty and compounding fee for the said purpose.

3. Issue such other writ, orders or directions, which this Honourable court may deem fit and proper in the interest of justice and circumstances of the case."

2. The learned counsel for the petitioner submits that the application preferred by the petitioner by way of Ext.P5 before the 1st respondent seeking for issuance of necessary mineral transit pass so as to transport ordinary earth from the premises of the petitioner, as reflected from Ext.P4 photograph, is still to be acted upon and hence the writ petition.

3. The learned Government Pleader points out that the alleged excavation is a recent one and that too, in contravention of the relevant provisions of law as per the instructions obtained. The fact remains that the request made by the petitioner vide Ext.P5 has to be considered and a speaking order has to be passed. The learned counsel for the petitioner submits that no offence has been committed by the petitioner and if at all any offence is there, the petitioner is ready to satisfy the royalty, if any payable and also to have the offence compounded, by virtue of the enabling provisions under the statute.

4. In the said circumstance, there will be a direction to the 1st respondent to conduct a spot inspection with notice to the petitioner and finalise the proceedings which forms the subject matter of Ext.P5, in accordance with law, at the earliest, at any rate within 'one month' from the date of receipt of a copy of the judgment. It will be open for the petitioner to compound the offence, if any, by satisfying the compounding fee to be fixed by the 1st respondent as aforesaid. Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the first respondent, for further steps.

The writ petition is disposed of.

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

sj