

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 13017 of 2015 (B)

PETITIONER(S):

**ABDULKADAR, AGED 48 YEARS
S/O. KUTTIHASSAN, MANAMAKAVU P.O.,
PATTITHARA VILLAGE,
PATTAMBI TALUK, PALAKKAD DISTRICT.**

BY ADV. SRI.S.SHAJAHAN (ADOOR)

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
PALAKKAD DISTRICT-686 562.**
- 2. THE DIRECTOR,
MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM, THIRUVANANTHAPURAM-695 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY JOINT SECRETARY TO GOVERNMENT,
INDUSTRIAL DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 13017 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : COPY OF THE BUILDING PERMIT OF THE SAID PROPERTY OF THE
PETITIONER ISSUED BY THE SECRETARY, PATTITHARA, DTD.25.3.2015.**

P2 : COPY OF THE SAID GO(P)NO.93/2014/ID DTD.30.6.2014.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 13017 of 2015 (B)

Dated this the 2nd day of June, 2015

J U D G M E N T

The petitioner seeks a direction to the 1st respondent to permit the petitioner to remove sand from the property on the strength of Ext.P1 building permit. The petitioner is said to have filed an application before the 1st respondent for removing the sand in his land in which construction was intended.

2. Quarrying permit for ordinary earth has to be applied under Rule 14 of the Kerala Minor Mineral Concession Rules, 2015 (hereinafter referred to as 'Rules') and an exemption is granted only with respect to extraction of ordinary earth in connection with the construction inter alia of residential buildings having a plinth area less than 300 sq. metres, that too, if the owner of the land has obtained a prior valid permit for construction of such

buildings from the Local Self Government Institution. Ext.P1 is the building permit obtained from the Local Self Government Institution which indicates that the total area of the building is 418.00 sq.metres.

3. The contention that the petitioner now proposes to construct only the ground floor, is of no consequence, since the construction of the first floor at any future time cannot possibly lead to any subsequent excavations. Excavation is to be made for the foundation, which in this case has to be effected for both the floors, even if the ground floor alone is now constructed.

4. The petitioner would have to obtain a quarrying permit under Rule 14 of the Rules, which can be applied for only after obtaining the Environment Clearance Certificate under Rule 9 of the Rules, as per the notification issued by the State Government.

The writ petition would stand dismissed, however, leaving the petitioner to approach the appropriate authorities under the Rules.

Sd/-
K.VINOD CHANDRAN,
JUDGE