

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 13219 of 2015 (B)

PETITIONER :

**SHERIF SAIDALIKUTTY,
S/O.SAIDALIKUTTY, AGED 42 YEARS, MADAMPATHU HOUSE
VALIYAKUNNU P.O., IRUMBILIYAM VILLAGE, THIRUR TALUK
MALAPPURAM DISTRICT.**

BY ADV. SRI.S.SHAJAHAN (ADOOR)

RESPONDENT(S) :

- 1. THE DISTRICT GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY
MALAPURAM DISTRICT - 676 505.**
- 2. THE DIRECTOR, MINING AND GEOLOGY
OFFICE OF THE MINING AND GEOLOGY
KESADASAPURAM, PATTAM, THIRUVANANTHAPURAM - 695001.**
- 3. THE STATE OF KERALA
REPRESENTED BY JOINT SECRETARY TO GOVERNMENT
INDUSTRIAL DEPARTMENT, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM-695 001.**

R1 TO R3 BY GOVT. PLEADER SMT. C.K. SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 13219 of 2015 (B)

APPENDIX

PETITIONERS' EXHIBITS :

**EXT.P1 - TRUE COPY OF THE BUILDING PERMIT OF THE PROPERTY OF THE
PETITIONER ISSUED BY THE SECRETARY, IRUMBILIYAM DATED
26.03.2015.**

EXT.P2 - TRUE COPY OF THE SAID G.O(P) NO.93/2014/ID DATED 30.06.2014.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J.

W.P.(C) No. 13219 of 2015 (B)

Dated this the 29th day of May, 2015

J U D G M E N T

The petitioner is aggrieved with the non-issuance of P-forms for removing the ordinary sand. The petitioner's contention is that as per the Minor Mineral Concession Rules 1967, a building permit was issued as per Ext.P1 and the excavation of work was conducted even prior to coming into force of the Kerala Minor Mineral Concession Rules 2015(for brevity "the Rules"). The petitioner also has a contention that he intends to construct only the ground floor of the building, the construction of which has been permitted by Ext.P1.

2. As per the earlier Rules of 1967, construction of all residential buildings were exempted from the requirement of a permit and any quarrying for the purpose of construction of a commercial building having a plinth area of 300 square meters or more, alone came within the

requirement of a quarrying permit. However, by Rule 14 of the Rules which was introduced in February 2015, the residential buildings including flats or commercial buildings having a plinth area of 300 square meters require a mining permit for extraction of ordinary earth. The same also requires an environmental clearance as provided in Rule 9 of the Rules. But for the mere assertion of the petitioner that the excavation was conducted prior to the introduction of the Rules, nothing is evident to prove the same. The petitioners merely on the basis of the issuance of Ext.P1 permit asserts that the excavation was before the Rules of 2015; without any factual substantiation.

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. In such circumstances, the writ petition is devoid of merit and the same is dismissed however, reserving the liberty of the petitioner to approach the appropriate authority under the provisions of the Rules of 2015.

Sd/-
K.VINOD CHANDRAN,
JUDGE