

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

W.P.(C).No.13870 of 2015 (G)

PETITIONER(S):-

1. OMANA, AGED 55 YEARS, W/O. JOSE,
RESIDING AT CHAKALAKKAL HOUSE,
PEECHI VILLAGE, PANACHERRY PANCHAYATH,
THRISSUR DISTRICT, PIN CODE - 680 653.
2. JOMON, AGED 28 YEARS, S/O. JOSE,
RESIDING AT CHAKALAKKAL HOUSE,
PEECHI VILLAGE, PANACHERRY PANCHAYATH,
THRISSUR DISTRICT, PIN CODE - 680 653.

BY ADVS.SRI.AJIT THOMAS
SRI.SURAJ.S.

RESPONDENT(S):-

1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY, THRISSUR DISTRICT - 680001.
2. THE SECRETARY
PANACHERRY GRAMA PANCHAYATH, PATTIKKAD P.O.,
THRISSUR DISTRICT, PIN CODE 680 652.

R1 BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT P1: A TRUE COPY OF THE TAX RECEIPT.

EXHIBIT P2: A TRUE COPY OF THE POSSESSION CERTIFICATE OF THE
PROPERTY OF THE PETITIONER.

EXHIBIT P3: A TRUE COPY OF THE BUILDING PERMIT DATED 28.2.2015
ISSUED TO THE PETITIONERS.

EXHIBIT P4: A TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE PETITIONER
BEFORE THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.13870 of 2015-G

Dated this the 21st day of May, 2015

JUDGMENT

The petitioners' grievance is the non-issuance of a permit in Form "P" for removing the ordinary sand as per the Kerala Minor Mineral Concession Rules, 1967. However, in this point of time the Kerala Minor Mineral Concession Rules, 2015 has come into force. The case of the petitioners is that, on the strength of Ext.P3 building permit, the petitioners levelled the property by removing ordinary earth for construction of a residential building. But when the petitioners approached the 1st respondent/District Geologist with a request for issuance of a pass in Form P of the Rules of 1967 to transport the earth from their 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 Rule 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 consider issuance of 'Mineral Transit Pass' in Form O(A) of the Kerala Minerals (Prevention of Illegal Mining, Storage and Transportation) Rules, 2015 [for brevity "Prevention Act"], on being satisfied with the genuineness of the claim of the petitioners based on Exhibit P3 building permit, without insisting for 'NOC'/Mining permit; in accordance with law, which shall be done at the earliest at any rate within two weeks from the date of receipt of a copy of this judgment. The petitioners shall produce a copy of this judgment along with a copy of the writ petition before the 1st respondent/District Geologist and make an application under the Prevention Act for further steps.

The writ petition is disposed of.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]