

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

WP(C).No. 13928 of 2015 (M)

PETITIONER(S):

- 1. P P SUNNY, S/O.P.D.PAULOSE, AGED 53 YEARS,
PANGIPARAMBIL HOUSE, CONVENT ROAD,
CHALAKKUDY P.O, PIN- 680 307**
- 2. SEENA SUNNY, W/O.P.P.SUNNY, AGED 49 YEARS,
PANGIPARAMBIL HOUSE, CONVENT ROAD,
CHALAKKUDY P.O, PIN -680 307**

**BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA**

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST,
OFFICE OF THE DISTRICT GEOLOGIST,
CHEMBUKKAVU,THRISSUR. PIN-680 305**
- 2. THE VILLAGE OFFICER,
THRISSUR VILLAGE, THRISSUR P.O.,PIN-680 001**

BY SR 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:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF DOCUMENT NO.1498/2013 OF S.R.O. THRISSUR
- P2: TRUE COPY OF THE DOCUMENT NO.1497/2013 OF S.R.O THRISSUR
- P3: TRUE COPY OF THE DOCUMENT NO.1499/2013 OF S.R.O THRISSUR
- P4: TRUE COPY OF THE DOCUMENT NO.395/2013 OF S.R.O THRISSUR
- P5: TRUE COPY OF THE POSSESSION CERTIFICATE IN RESPECT OF THE PROPERTIES COVERED BY EXHIBIT P1 AND P2 DOCUMENTS BELONGING TO THE FIRST PETITIONER
- P6: TRUE COPY OF THE POSSESSION CERTIFICATE IN RESPECT OF THE PROPERTIES COVERED BY EXHIBIT P3 AND P4 DOCUMENTS BELONGING TO THE SECOND PETITIONER
- P7: TRUE COPY OF THE LAND TAX RECEIPT IN RESPECT OF THE PROPERTIES COVERED BY EXHIBITS P1 AND P2 DOCUMENTS BELONGING TO THE FIRST PETITIONER
- P8: COPY OF THE LAND TAX RECEIPT IN RESPECT OF THE PROPERTIES COVERED BY EXHIBIT P3 AND P4 DOCUMENTS BELONGING TO THE SECOND PETITIONER
- P9: TRUE COPY OF THE BUILDING PERMIT NO. DW3/BA/451/13-14 DATED 26.02.2014
- P10: TRUE COPY OF THE REQUEST DATED 30/3/2014.
- P11: TRUE COPY OF THE ORDER DATED 31.03.2015 IN APPLICATION NO.67 OF 2015 OF THE NATIONAL GREEN TRIBUNAL SOUTH ZONE BENCH, CHENNAI.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

K. VINOD CHANDRAN, J

W.P(C) No. 13928 of 2015

Dated this the 21st day of May, 2015

J U D G M E N T

The petitioners are aggrieved with the non-consideration of Ext.P10 application filed under the Kerala Minor Mineral Concession Rules, 2015. The petitioners are intending to construct a commercial building, for which the petitioners have obtained building permit at Ext.P9. For carrying on the construction of the building, the petitioners require to remove ordinary earth from the land and for the same, the petitioners have applied by Ext.P10 under Rule 14 of the Kerala Minor Mineral Concession Rules, 2015.

2. Sub-rule (1) of Rule 14 specifically requires a quarrying permit for extraction of ordinary earth used for filling or levelling purposes in construction of embankments, roads, railways or buildings in Form N. What is exempted under sub-rule (2) is only the extraction of ordinary earth in connection with the

construction of residential building including flats and commercial buildings having a plinth area of 300 square meters that too, on condition that the concerned person has obtained a permit from the Local Self Government Institution. Admittedly the petitioners do not fall under the exemption under sub rule (2). The petitioners contend that the application is not being considered only for reason of Ext.P11 order of the National Green Tribunal, Southern Zone, Chennai.

3. The learned Government Pleader however would submit that there is no interdiction in Ext.P11 and that the application at Ext.P10 would be considered in accordance with law. Even looking at Ext.P11, the challenge was with respect to a Government Order issued by the State indicating that prior permission is not required to use and carry ordinary earth for personal house construction. A public spirited person had filed an application before the Tribunal, in which the said Government

Order was stayed. The apprehension expressed by the applicant therein, taken note of by the Tribunal was that, in the guise of personal house construction large scale quarrying operations would be conducted. It is to be noticed that the Government Order permitting transport of ordinary earth for personal house construction does not have any limit as is provided under sub rule (2) of Rule 14. The learned Government Pleader, would infact, contend that the Government Order which was stayed by the National Green Tribunal was issued before coming into force of Kerala Minor Mineral Concession Rules, 2015. In such circumstance, there is absolutely no reason why Ext.P11 should stand in the way of consideration of Ext.P10 application.

4. The 1st respondent is directed to consider Ext.P10 application after hearing the petitioner and after conducting site inspection if the same is found necessary within three months from the date of receipt of production of a certified copy of this

judgment. The petitioner is to produce the environmental clearance certificate from the State Environmental Impact Assessment Authority, Kerala, as is provided under the rules.

Writ petition is disposed of.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

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///true copy//

P.A to Judge