

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).NO. 14054 OF 2015 (F)

PETITIONERS:

1. SRI.SHANAVAS. M., AGED 50 YEARS,
S/O.HASSAN RAWTHER, ROYAL PALACE, PALLIMURI,
PORUVAZHY. P.O, KOLLAM DISTRICT-690 520.
2. SMT.SHAMLA MOL,
W/O. SHANAVAS.M, ROYAL PALACE, PALLIMURI,
PORUVAZHY. P.O, KOLLAM DISTRICT-690 520.
3. SRI.MOHAMMED SHAN,
S/O.SHANAVAS. M, ROYAL PALACE, PALLIMURI,
PORUVAZHY. P.O, KOLLAM DISTRICT-690 520.
4. SRI.MOHAMMED SHAHIL,
S/O.SHANAVAS. M, ROYAL PALACE, PALLIMURI,
PORUVAZHY. P.O, KOLLAM DISTRICT-690 520.

BY ADVS.SRI.P.A.MOHAMMED SHAH,
SRI.SOORAJ T.ELENJICKAL,
SMT.P.M.MAZNA MANSOOR.

RESPONDENTS:

1. THE GEOLOGIST, DISTRICT OFFICE,
DEPARTMENT OF MINING AND GEOLOGY,
ASRAMAM, KOLLAM-691 002.
2. VILLAGE OFFICER, PORUVAZHY VILLAGE,
PORUVAZHY, AMBALATHUMBHAGOM,
KOLLAM DISTRICT-690 520.
3. SUB INSPECTOR OF POLICE,
SOORANAD POLICE STATION,
KOLLAM DISTRICT-690 522.

BY GOVERNMENT PLEADER SRI.S. JAMAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs.

APPENDIX

PETITIONERS' EXHIBITS:

- EXT.P1 THE TRUE COPY OF THE POSSESSION/LOCATION CERTIFICATE
DATED 25.03.2015 ISSUED TO THE 1ST PETITIONER BY THE
2ND RESPONDENT.
- EXT.P2 THE TRUE COPY OF THE POSSESSION/LOCATION CERTIFICATE
DATED 25.03.2015 ISSUED TO THE PETITIONERS 2 TO 4 BY THE
2ND RESPONDENT.
- EXT.P3 THE TRUE COPY OF THE RELEVANT PAGE OF THANDAPER
ACCOUNT DATED NIL ISSUED TO THE 1ST PETITIONER BY THE
2ND RESPONDENT.
- EXT.P4 THE TRUE COPY OF THE RELEVANT PAGE OF THANDAPER
ACCOUNT DATED NIL ISSUED TO THE PETITIONERS 2 TO 4 BY THE
2ND RESPONDENT.
- EXT.P5 THE TRUE COPY OF THE BUILDING PERMIT ISSUED BY THE
SECRETARY, PORUVAZHY GRAMA PANCHAYATH DATED 24.04.2015.
- EXT.P6 TRUE COPY OF THE APPLICATION FILED IN FORM N
DATED 28.04.2015.
- EXT.P7 THE TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE
COURT IN WP(C). NO.10192 OF 2015 DATED 30.03.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

K. VINOD CHANDRAN, J

W.P(C) No. 14054 of 2015

Dated this the 04th day of June, 2015

J U D G M E N T

The petitioners have a building permit, produced at Ext.P5, for which the petitioners require to extract ordinary earth from the property and transport the same, which activity is covered under the Minor Mineral Concession Rules, 2015 (for short “MMC Rules” only) and Kerala Minerals (prevention of illegal mining, storage and transportation) Rules, 2015 (for short, “Transportation Rules”). As per the Rule 14 of the MMC Rules, any extraction of ordinary earth for construction of a building whether it be residential or commercial, having an area of less than 300 meters are exempted for obtaining quarrying permit provided they have a building permit from the Local Self Government Institution. In the petitioner's case, the same is evident and is produced at Ext.P5. The petitioners contention is

that the police are prohibiting them from carrying on the extraction and requires a sanction from the Geologist.

2. As per the MMC Rules enforced in the State as on 7.2.2015, there is an exemption insofar as the petitioners' building is concerned since the petitioners intend to construct only a building of less than 300 m³ and has obtained a building permit from the Local Self Government Institution. The requirement is only to obtain forms for transporting the earth under the Transportation Rules 2015. The Senior Geologist will hence have to issue transit passes under Form O(A) of the Transportation Rules. It is the petitioner's case that the Senior Geologist has directed them to extract the earth and keep it in the property so as to assess the royalty. In such circumstance, the first respondent shall carry out inspection of the property along with the petitioner and assess the quantity of ordinary earth to be extracted for the purpose of the construction of the building and the petitioner shall

then, carry out the extraction and keep it stacked in the property.

The Senior Geologist shall inspect the extracted ordinary earth and issue required passes in Form No.O(A), to be transported during a particular period.

Writ petition would stand allowed.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge