

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 19TH DAY OF MAY 2015/29TH VAISAKHA, 1937

WP(C).No. 14665 of 2015 (G)

PETITIONER :

**DANIAL, AGED 55 YEARS,
S/O.VARGHESE, KIZHAKKEVILA, CHEMBUKAVU P.O.,
MADAKKATHARA VILLAGE, THRISSUR TALUK,
THRISSUR DISTRICT. PIN- 680 005.**

**BY ADVS.SRI.C.X.ANTONY BENEDICT
SMT.PRINCY XAVIER**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 2. DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT. PIN-680 001.**
- 3. DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KEASAVADASAPURAM PATTAM, THIRUVANANTHAPURAM -695 001.**

BY SR GOVERNMENT PLEADER SMT.M.J.RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 14665 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE TAX PAID RECEIPT IN THE NAME OF PETITIONER.**
- EXHIBIT P2. COPY OF THE BUILDING PERMIT ISSUED BY THE PANCHAYAT.**
- EXHIBIT P3. COPY OF THE APPLICATION DATED 27.4.15 GIVEN TO THE 2ND RESPONDENT.**
- EXHIBIT P4. COPY OF THE CHALAN FOR THE APPLICATION FEE DATED 27.4.15.**
- EXHIBIT P5. COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC NO.12465 OF 2015.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.14665 of 2015

.....
Dated this the 19th day of May, 2015

J U D G M E N T

The case of the petitioner is that, on the strength of Ext.P2 building permit, the petitioner levelled the property by removing ordinary earth for construction of a residential building, but when the petitioner approached the 2nd respondent/District Geologist with a request for issuance of Mineral Transit pass to transport the earth from his 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 rules 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 or 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 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, the 2nd respondent/ District Geologist is directed to issue 'Mineral transit Pass' in Form O(A), on being satisfied with the genuineness of the claim of the petitioner based on Ext.P2 building permit, without insisting for 'NOC'/Mining permit; in accordance with law, which shall be done at the earliest at any rate within 'ten days' from the date of receipt

of a copy of this judgment. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the 2nd respondent/District Geologist for further steps.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns