

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.14836 of 2015 (D)

PETITIONER(S):-

ANGITHA JACOB,
KANAKKANATTU HOUSE, NOCHIMA,
N.A.D. P.O., ERNAKULAM.

BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.P.T.ABHILASH.

RESPONDENT(S):-

1. GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF INDUSTRY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. GEOLOGIST, MINING AND GEOLOGY DEPARTMENT,
CIVIL STATION, KAKKANAD, ERNAKULAM, KOCHI - 682 030.
3. VILLAGE OFFICER, ALUVA WEST VILLAGE, ALUVA,
ERNAKULAM DISTRICT, PIN - 683 101.

R1 TO R3 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:-

WP(C).No.14836 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT-P1: TRUE COPY OF THE POSSESSION CERTIFICATE NO.8356832
DATED 30.09.2014 OF THE PETITIONER'S PROPERTY ISSUED
BY THE 3RD RESPONDENT.

EXHIBIT-P2: TRUE COPY OF THE LAND TAX RECEIPT NO.4497536 OF BOOK
NO.44976 DATED 10.04.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P3: TRUE COPY OF THE BUILDING PERMIT DATED 25.4.2015
ISSUED BY THE SECRETARY OF EDATHALA GRAMA PANCHAYAT.

EXHIBIT-P4: TRUE COPY OF THE REPRESENTATION DATED 4.5.2015
SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT-P5: TRUE COPY OF THE JUDGMENT DATED 10.4.2015 IN W.P.(C)
NO.12145 OF 2015 OF THIS HON'BLE COURT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.14836 of 2015-D

Dated this the 21st day of May, 2015

JUDGMENT

The case of the petitioner is that, on the strength of Ext.P3 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/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 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, 2nd respondent/District Geologist is directed to issue '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 petitioner 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 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 of.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]