

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WP(C).No. 15001 of 2015 (A)

PETITIONER(S) :

**VIJAYAN V.K., AGED 50 YEARS,
S/O.KUTTAPPAN, VADAYIKKARA HOUSE, VEETTOOR KARA,
NELLAD.P.O., MAZHUVANNUR VILLAGE, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.K.S.ARUN KUMAR
SMT.M.N.MAYA
SMT.RESMI THOMAS
SRI.M.S.DILEEP**

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR,
ERNAKULAM, PIN-682 030.**
- 2. TAHASILDAR,
KUNNATHUNADU, PERUMBAVOOR.P.O.,
ERNAKULAM DISTRICT, PIN-683 542.**
- 3. THE VILLAGE OFFICER,
MAZHUVANNOOR VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT, PIN-683 542.**
- 4. GEOLOGIST,
MINING & GEOLOGY, KAKKANADU,
ERNAKULAM DISTRICT, PIN-682 030.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: THE TRUE COPY OF POSSESSION CERTIFICATE.**
- EXT.P2: THE TRUE COPY OF BUILDING PERMIT DATED 26/02/2015 GIVEN BY THE MAZHUVANNOOR GRAMA PANCHAYATH.**
- EXT.P3: THE TRUE COPY OF THE CONSENT LETTER DATED 20/03/2015.**
- EXT.P4: THE TRUE COPY OF THE DATED 28/03/2015 BEFORE THE 4TH RESPONDENT.**
- EXT.P5: THE TRUE COPY OF THE AFFIDAVIT DATED 12/03/2015 SUBMITTED BY THE PETITIONER ALONG WITH EXHIBIT P4 APPLICATION.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

W.P.(C) No. 15001 of 2015 (A)

Dated this the 22nd 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 4th 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. The 4th 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 P2 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 4th respondent/District Geologist for further steps.

The writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE