

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

WP(C).No. 15275 of 2015 (H)

PETITIONER(S):

- 1. ALEYAMMA THOMAS
KINATTUMOOTIL HOUSE, KOTTAYAM -1**
- 2. C.T.ABRAHAM,
KINATTUMOOTIL HOUSE, KOTTAYAM -1**
- 3. SUSY ABRAHAM,
KINATTUMOOTIL HOUSE, KOTTAYAM -1**

**BY ADVS.SMT.K.P.SANTHI
SRI.RILGIN V. GEORGE
SMT.E.U.DHANYA
SRI.R.JAYAKRISHNAN (MUTHUKULAM)**

RESPONDENT(S) :

- 1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- 2. THE DISTRICT COLLECTOR,
KOTTAYAM – 680 002.**
- 3. THE GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT, DISTRICT OFFICE
CIVIL STATION, KOTTAYAM-686 002..**

R1 TO R3 BY GOVT. PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

WP(C).No. 15275 of 2015 (H)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1: TRUE COPY OF THE TAX RECEIPTS DATED 25/4/2015.

**EXT. P2: TRUE COPY OF THE BUILDING PERMIT NO.PW7-TBA (3241)/2015
DATED 3/2/2015 AND PLAN.**

**EXT. P3: TRUE COPY OF THE REQUEST DATED 26/3/2015 SUBMITTED TO THE
2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J.

W.P.(C) No. 15275 of 2015 (H)

Dated this the 1st day of June, 2015

J U D G M E N T

The petitioners seek a direction to the 2nd respondent to permit the petitioners to remove sand from the property on the strength of Ext.P2 building permit.

2. The petitioners are said to have filed an application before the 2nd and 3rd respondent for removing the sand in their land in which construction was intended, for the purpose of carrying on piling work. It is also averred in the writ petition that the sand lying beneath the surface is of good quality and can be used for the construction activity. The petitioners, even as per the averments, applied for a 'No Objection Certificate' from the 3rd respondent.

3. However, the Kerala Minor Mineral Concession Rules, 2015 (hereinafter referred to as 'Rules') does not speak of any 'No Objection Certificate' to be issued by the 3rd respondent. Quarrying permit for ordinary earth has to be applied under Rule 14 of the Rules and an exemption is granted only with respect to extraction of ordinary earth in connection with the construction inter alia of commercial buildings having a plinth area less than 300 sq. metres, that too, if the owner of the land has obtained a prior valid permit for construction of such buildings from the Local Self Government Institution. Ext.P2 is the building permit obtained from the Local Self Government Institution which indicates that the total area of the building is 1262.56 sq.metres.

4. The petitioners would have to obtain a quarrying permit under Rule 14 of the Rules, which can be applied for only after obtaining the

Environment Clearance Certificate under Rule 9 of the Rules, as per the notification issued by the State Government.

The writ petition would stand dismissed, however, leaving the petitioners to approach the appropriate authorities under the Rules.

Sd/-
K.VINOD CHANDRAN,
JUDGE