

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 15354 of 2015 (T)

PETITIONER :

**BAIJU SHAIKH,
S/O.SHAKE MOIDEEN,AGED 42 YEARS, VILAYIL VADAKKATHIL,
ADIKKATTUKULANGARA, NOORANAD, MAVELIKARA,
ALAPPUZHA DISTRICT, PIN -690 537**

**BY ADVS.SRI.M.G.SREEJITH
SRI.ASHOK SURESH**

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST,
OFFICE OF THE MINING AND GEOLOGY,
ALAPPUZHA DISTRICT -690 534**
- 2. THE DIRECTOR,
MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY,
KESAVADASPURAM, PATTAM, THIRUVANANTHAPURAM- 695 001**
- 3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 15354 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF THE BUILDING PERMIT DATED 01.09.2014 BY THE PALAMEL GRAMA PANCHAYATH

P2: TRUE COPY OF THE APPLICATION DATED 19.05.2015 SUBMITTED BY THE PETITIONER

P3: TRUE COPY OF THE JUDGMENT DATED 05.03.2015 IN WPC.NO.7072/2015

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J.

W.P(C). No.15354 of 2015

Dated this the 26th day of May, 2015.

JUDGMENT

The case of the petitioner is that, on the strength of Ext.P1 building permit, the petitioner levelled the property by removing ordinary earth for construction of a cattle shed. But when the petitioner approached the first 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 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, first 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.P1 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, if necessary after a site inspection. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the first respondent/District Geologist for further steps.

The writ petition is disposed of.

**K. VINOD CHANDRAN,
JUDGE**

sp