

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. 15465 of 2015 (G)

PETITIONER(S):

1. PRASAD, S/O KURIAKOSE, AGED 56 YEARS,
KUZHIKKATTIL HOUSE, PATTIKKAD P.O.,
PANANCHERRY VILLAGE, THRISSUR DISTRICT.
2. ISSAC, S/O JOSEPH, AGED 46 YEARS,
MANGOTTIL, PATTIKKAD P.O.,
PANANCHERRY VILLAGE, THRISSUR DISTRICT.
3. KRISHNANUNNI, S/O SARASWATHIAMMA,
AGED 56 YEARS, THEKKOOT, PATTIKKAD P.O.,
PANANCHERRY VILLAGE, THRISSUR DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT-680001.
2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM,
THIRUVANANTHAPURAM-695001.
3. THE STATE OF KERALA, REPRESENTED
BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

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

mbr/

WP(C).No. 15465 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1: TRUE COPY OF THE BUILDING PERMIT DATED 29.12.2014 ISSUED BY
THE SECRETARY, NADATHARA GRAMA PANCHAYATH.**

**EXHIBIT P2: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT DATED 25.4.2015.**

**EXHIBIT P3: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
DATED 5.3.2015 IN WPC NO.7055 OF 2015.**

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

/TRUE COPY/

P.A. TO JUDGE

mbr/

K. VINOD CHANDRAN, J.

W.P(C). No.15465 of 2015

Dated this the 26th day of May, 2015.

JUDGMENT

The case of the petitioners is that, on the strength of Ext.P1 building permit, the petitioners levelled the property by removing ordinary earth for construction of a residential building. But when the petitioners 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 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 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 petitioners 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 conducting a spot inspection. The petitioners 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.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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