

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

WP(C).No. 16506 of 2015 (K)

PETITIONER(S) :

**NALINI MADANAN, AGED 52 YEARS,
W/O.MADANAN, RESIDING AT KOMBATH, 132, POOKODE,
VARAKKARA, THRISSUR DISTRICT, PIN- 680 302.**

**BY ADVS.SRI.AJITH THOMAS
SRI.SURAJ.S**

RESPONDENT(S) :

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT- 680 001.**
- 2. ALAGAPPANAGAR GRAMA PANCHAYATH,
ALAGAPPANAGAR P.O, VARANDARAPPILLY, THRISSUR DISTRICT,
REPRESENTED BY ITS SECRETARY, PIN CODE- 680 302.**

R1 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE POSSESSION CERTIFICATE OF
THE PROPERTY OF THE PETITIONER.**

**EXHIBIT P2: A TRUE COPY OF THE BUILDING PERMIT DATED 21.03.2015
ISSUED TO THE PETITIONER.**

**EXHIBIT P3: A TRUE COPY OF THE REPORT OF THE 2ND RESPONDENT
NO.A4.2238/15 DATED 18.04.2015.**

**EXHIBIT P4: A TRUE COPY OF THE JUDGMENT DATED 21.05.2015 IN
W.P.(C).NO.13869 OF 2015 OF THIS HONOURABLE HIGH COURT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

W.P.(C) No. 16506 of 2015 (K)

Dated this the 3rd day of June, 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 1st 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 1st 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, if necessary after physical inspection of the site, 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 1st respondent/District Geologist for further steps.

The writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE