

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 16887 of 2015 (I)

PETITIONER(S):

- 1. SHAIJU, AGED 39 YEARS,
S/O.VARGHESE, RESIDING AT PANNIKULAM HOSUE, MUPLY,
MURIKANGAL P.O, THRISSUR DISTRICT, PIN 680 699.**
- 2. NELSY, AGED 33 YEARS,
W/O.SHAIJU, RESIDING AT PANNIKULAM HOSUE, MUPLY,
MURIKANGAL P.O, THRISSUR DISTRICT, PIN 680 699.**

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

RESPONDENT(S):

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT. 680 001.**
- 2. THE SECRETARY,
MATTATHUR GRAMA PANCHAYATH, MATTATHUR P.O,
THRISSUR DISTRICT, PIN 680 684.**

R1 BY SENIOR GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE POSSESSION CERTIFICATE OF THE PROPERTY OF THE PETITIONER.**
- EXHIBIT P2. COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS.**
- EXHIBIT P3. COPY OF THE APPLICATION SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT.**
- EXHIBIT P4. COPY OF THE JUDGMENT DATED 25.5.15 IN WPC 13869 OF 2015 OF THIS HONOURABLE HIGH COURT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. VINOD CHANDRAN, J.

W.P(C). No.16887 of 2015

Dated this the 5th day of June, 2015.

JUDGMENT

The case of the petitioners is that, on the strength of Ext.P2 No-objection Certificate, the petitioners levelled the property by removing ordinary earth for construction of a residential house. 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.P2 No-objection Certificate, 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.

Sd/-
K. VINOD CHANDRAN,
JUDGE