

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 21504 of 2015 (K)

PETITIONER :

**ABDUL JABBAR ABBAS,S/O.ABDUL JABBAR,
MANNANTAYYATH, PALAKKAL, THEVALAKKARA VILLAGE,
KARUNAGAPPALY, KOLLAM.**

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S):

- 1. THE GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT,
ASRAMAM, KOLLAM-691 002**
- 2. THE VILLAGE OFFICER, SOORANADU NORTH VILLAGE,
SOORANADU.P.O., KOLLAM-690 522**
- 3. THE SECRETARY, SOORANADU NORTH GRAMA PANCHAYATH,
SOORANADU NORTH.P.O., SASTHAMKOTTA, KOLLAM-690 561**

R1 & R2 BY SR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.21504/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE POSSESSION CERTIFICATE NO.6965/14 DATED 29/11/2014 ISSUED BY THE VILLAGE OFFICER, SOORANAD NORTH TO THE PETITIONER.
- P2 COPY OF THE BUILDING PERMIT NO.S4-951/14 DATED 01/03/2014 ISSUED FROM THE 3RD RESPONDENT SOORNADU NORTH GRAMA PANCHAYATH TO THE PETITIONER.
- P3 COPY OF THE NO OBJECTION CERTIFICATE DATED 13/01/2014 ISSUED FROM THE SECRETARY, SOORANADU NORTH GRAMA PANCHAYATH TO THE PETITIONER.
- P4 COPY OF THE NO OBJECTION CERTIFICATE ORDER NO.B/9124/2014 DATED 27/05/2014 ISSUED BY THE REVENUE DIVISIONAL OFFICER, KOLLAM TO THE PETITIONER.
- P5 COPY OF THE JUDGMENT DATED 08/04/2015 IN WPC.NO.10108/2015 OF THIS HON'BLE COURT
- P6 COPY OF THE CERTIFICATE NO.1705/2015 DATED 21/03/2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- P7 COPY OF THE APPLICATION DATED 16/06/2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT

RESPONDENT'S EXHIBITS

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J.

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W.P.(C) No.21504 of 2015 - K

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Dated this the 16th day of July, 2015

J U D G M E N T

The petitioner owns a property of around 50 Ares in which he intends to construct a Hostel for students, the permit of which is produced at Ext.P2. The petitioner is exempted from obtaining a quarrying permit by virtue of Rule 14 of the Kerala Minor Mineral Concession Rules, 2015 (for brevity the 'Rules'). However, he has to obtain O(A) Forms under the Rules for transportation of the excavated earth.

2. By virtue of Rule 14 of the Rules 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."

3. In the above facts and circumstances, 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"), without insisting for 'NOC'/Mining permit; however, the same shall be only on satisfaction of the genuineness of the claim of the petitioner based on the building permit issued by the Local Self Government Institution. The respondents shall inspect the property and determine the amount of earth to be extracted and then the petitioner shall extract the earth after which a further inspection shall be

conducted and passes shall be issued. It is made clear that the mining passes shall be issued only after the ordinary earth to be transported is stacked in the property which has to be physically inspected by the Geologist. The Geologist shall also issue as many number of passes as there are vehicles required for transporting the heaped quantity of ordinary earth after ensuring that the entire details required in form O(A) is filled up by the petitioner. The petitioner shall also be liable to surrender the passes after the transport is effected. It goes without saying that the destination to which the ordinary earth is to be taken has to be specified in the passes, before it is issued by the respondent. The above exercise shall be done immediately on the petitioner approaching the Geologist.

Writ petition is disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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// true copy //
P.A to Judge.