

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C).No. 23504 of 2015 (K)

PETITIONER:

**KUNJUMARAKKAR, S/O. MOITHU,
AGED 50 YEARS, NAYATTUPARAYIL HOUSE,
WADAKKANCHERY P.O., WADAKKANCHERY VILLAGE,
THALAPPILLY TALUK, REPRESENTED BY POWER OF
ATTORNEY HOLDER JAISON, S/O. FRANCIS,
AGED 39 YEARS, CHITILAPPILLY HOUSE,
RAILWAY STATION P.O., WADAKKANCHERY VILLAGE,
THALAPPILLY TALUK, THRISSUR DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENTS:

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT-680 001.**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING GEOLOGY,
KESAVADASAPURAM, PATTAM,
THIRUVANANTHAPURAM-695 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

BY SR. GOVT. PLEADER SRI.BIJU MEENATTOOR.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 23504 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1- TRUE COPY OF THE NO OBJECTION CERTIFICATE DATED 30-03-2012
ISSUED BY THE SECRETARY, WADAKKANCHERY GRAMA
PANCHAYATH TO THE PETITIONER.**

**EXHIBIT P2- TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT DATED 17-07-2015.**

**EXHIBIT P3- TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
DATED 24-06-2015 IN WP(C).NO.18466 OF 2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

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W.P.(C) No.23504 of 2015 - K

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Dated this the 11th day of August, 2015

J U D G M E N T

The petitioner owns a property situated in Sy.No.1300/1 of Wadakkenchery Village, Thalappilly Taluk, Thrissur District, to construct a residential building of 81.37 M², the permit of which is produced at Ext.P1. 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.