

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

WP(C).No. 23926 of 2015 (M)

PETITIONER(S) :

**BABY, AGED 50 YEARS,
S/O.AUGUSTY, CHIRAMEL, ANAPPARA P.O., AYYAMPUZHA VILLAGE,
ALUVA TALUK, ERNAKULAM DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
ERNAKULAM DISTRICT- 682 030.**
- 2. THE DIRECTOR,
MINING AND GEOLOGY, OFFICER OF THE MINING AND 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.GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 23926 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE BUILDING PERMIT 21.07.2015 ISSUED BY
THE SECRETARY, AYYAMPUZHA GRAMA PANCHAYATH.**

**EXHIBIT P2: TRUE COPY OF THE APPLICATION SUBMITTED BY THE
PETITIONER BEFORE THE FIRST RESPONDENT DATED 23.07.2015.**

**EXHIBIT P3: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
DATED 21.05.2015 IN W.P.(C).NO.14427/2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J

W.P(C) No. 23926 of 2015 M

Dated this the 07th day of August, 2015

J U D G M E N T

The case of the petitioner is that, on the strength of ExtP1 building permit, the petitioner intends to construct a residential building for which purpose ordinary earth has to be removed from the property. But when the petitioner approached the respondent/Geologist with a request for issuance of Mineral Transit pass to transport the clay from his property, it was refused to be acted upon.

2. 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. 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 period expires. 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, at any rate, within a period of two weeks from the date of such application being filed.

Writ petition is disposed of.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge