

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 24855 of 2015 (F)

PETITIONER(S):

**HAMEED, S/O.MAKKAYI, AGED 61 YEARS,
NONDATHUMPARAMBIL, VILVATTAM VILLAGE,
THRISSUR TALUK, THRISSUR DISTRICT,
REPRESENTED BY POWER OF ATTORNEY HOLDER SATHEESH K.B,
S/O.BALAKRISHNAN, AGED 32 YEARS, KIZHAKKEDATH HOUSE,
RAMAVARMAPURAM P.O, VILAVATTAM VILLAGE, THRISSUR TALUK,
THRISSUR DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

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

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 24855 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE BUILDING PERMIT DATED 14.7.15 ISSUED BY THE SECRETARY, THRISSUR MUNICIPAL CORPORATION TO THE PETITIONER.**
- EXHIBIT P2. COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE IST RESPONDENT DATED 17.7.15.**
- EXHIBIT P3. COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 24.6.15 IN WPC 18466/15.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ANIL K. NARENDRA, J.

W.P.(C) No.24855 of 2015

Dated this the 17th day of August, 2015

JUDGMENT

The petitioner owns a property situated in Sy.No.5/1 of Vilvattom Village, Thrissur Taluk in which he intends to construct a residential building, based on Ext.P1 building permit No.BA/83/15-16 dated 14.07.2015 issued by the Thrissur Municipal Corporation. 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. Heard the learned Government Pleader as well.

3. 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.”

4. In the above facts and circumstances, 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”), 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.

The Writ petition is disposed of as above.

JV

sd/-
ANIL K. NARENDHAN,
JUDGE