

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 25725 of 2015 (M)

PETITIONER(S):

**V. AKBAR, S/O.ABDULLA,
AGED 36 YEARS, VAKAPPATTA HOUSE,
KARULAI P.O, MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR.

RESPONDENT(S):

- 1. THE REVENUE DIVISIONAL OFFICER,
PERINTHALMANNA, MALAPPURAM DISTRICT, PIN: 679 322.**
- 2. THE TAHSILDAR, NILAMBUR TALUK,
MALAPPURAM DISTRICT, PIN: 679 329.**
- 3. THE VILLAGE OFFICER, CHOKKAD VILLAGE,
MALAPPURAM DISTRICT- 679 329.**
- 4. THE SUB INSPECTOR OF POLICE,
KALIKAVU POLICE STATION,
MALAPPURAM DISTRICT- 679 525.**

BY SR. GOVT.PLEADER SMT.C.K. SHERIN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1: TRUE COPY OF THE QUARRYING PERMIT ISSUED TO THE PETITIONER DATED 23/07/2010 BY THE GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY, MANJERI.**
- P2: TRUE COPY OF THE QUARRYING PERMIT ISSUED TO THE PETITIONER DATED 21/10/2011 BY THE GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY, MANJERI.**
- P3: TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE 4TH RESPONDENT DATED 06/08/2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 25725 of 2015

Dated this the 16th day of September, 2015

J U D G M E N T

Petitioner approached this Court with the following
reliefs:--

- i) Issue a writ of mandamus or any other appropriate writs, orders or directions commanding the respondents not to interfere or prevent the petitioner in levelling the land owned by him in Survey No.130 Part of Chokkad Village by using excavators;
- ii) Declare that for levelling the land owned by the petitioner by using mechanized devices for agricultural purposes no permission at all is required from any other respondents;

Petitioner's case is that he is using the excavators only for the purpose of levelling the land. It is also submitted that his excavator is not being used for excavation of any earth or transport of earth outside the property.

2. Learned Government Pleader, on instructions, submitted that the petitioner requires sanction from the competent authority as per

Rule 106 of the Kerala Minor Mineral Concession Rules. The above Rule reads as follows:-

“106. Extraction of minerals for special purposes:--

(1) in any case or class of cases such as construction of common facilities or residential building where extraction of minor mineral is inevitable as a part of the work, the person doing such work may be exempted from obtaining quarrying permit/lease under these rules:-

Provided that before extraction of minor minerals, the persons concerned shall intimate the competent authority his intention to carry out the works to be performed and shall furnish necessary documents as required by the competent authority in this regard. If the extracted mineral is to be transported outside the worksite, the competent authority may issue special mineral transit passes after collecting the royalty. ”

As seen from Rule 106, permission is required for the purpose of extraction or excavation from the earth. It does not insist for permission for levelling the land.

3. Therefore, if the petitioner's excavator is being used only for the purpose of levelling land, the respondent shall not prevent the

petitioner from doing such activities. However, if it is involved for extraction or transportation of the earth, the respondents are free to take appropriate action in accordance with law.

This writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE,
Judge

MBS/

WP(C).NO.25725 OF 2015

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