

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

WP(C).No. 27388 of 2015 (W)

PETITIONER(S):

**MATHEW P.J., AGED 45 YEARS,
S/O.JACAB MATHEW, PUTHIYAPRAMPIL HOUSE,
NEDUMKUNNAM MURI, NEDUKUNNAM VILLAGE,
CHENGANASSERRY TALUK, KOTTAYAM DISTRICT.**

BY ADV. SRI.AJITH MURALI

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR, KOTTAYAM,
KOTTAYAM DISTRICT - 686 001.**
- 3. THE REVENUE DIVISIONAL OFFICER,
KOTTAYAM, KOTTAYAM DISTRICT - 686 001.**
- 4. THE VILLAGE OFFICER, NEDUMKUNNAM GRAMA PANCHAYATH,
CHENGANASSERY TALUK,
KOTTAYAM DISTRICT - 686 001.**
- 5. THE SECRETARY, NEDUMKUNNAM GRAMA PANCHAYATH,
CHENGANASSERY TALUK,
KOTTAYAM DISTRICT - 686 001.**
- 6. THE SENIOR GEOLOGIST, DEPARTMENT OF MINING
AND GEOLOGY, KOTTAYAM DISTRICT - 686 001.**

R1-R3 & R6 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 27388 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: THE TRUE COPY OF THE BUILDING PERMIT NO.A4-1983/2015 DTD.2.6.2015
ISSUED BY THE 5TH RESPONDENT; SECRETARY OF NEDUMKUNNAM GRAMA
PANCHAYATH.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A. MUHAMED MUSTAQUE, J.

.....
W.P.(C) No.27388 of 2015 (W)

.....
Dated this the 10th day of September, 2015

JUDGMENT

The case of the petitioner is that, on the strength of Ext.P1 Building Permit, the petitioner levelled the property by removing ordinary earth for construction of a residential building. But when the petitioner approached the 6th respondent/The Senior Geologist with a request for issuance of Mineral Transit pass to transport the earth from his property, it was refused to be acted upon.

2. Heard the learned Counsel for the petitioner and the learned Government Pleader.

3. By virtue of Rule 14 of the Kerala Minor Mineral Concession Rules, 2015 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, 6th respondent/The Senior 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”], on being satisfied with the genuineness of the claim of the petitioner based on Exhibit P1 Building permit, without insisting for 'NOC'/Mining permit; in accordance with law, which shall be done at the earliest at any rate within two weeks from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the 6th respondent/The Senior Geologist for further steps.

The writ petition is disposed of.

Sd/–
A. MUHAMED MUSTAQUE
JUDGE