

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 27534 of 2015 (N)

PETITIONERS :

- 1. JEIBIN MATHEWS VARGHESE, AGED 30 YEARS,
VATTAVILAYIL JEO COTTAGE, NEDUMON MURI,
ENADIMANALUM VILLAGE, ADOOR TALUK,
PATHANAMTHITTA DISTRICT**
- 2. MATHEWS VARGHESE, S/O. VARGHESE, AGED 60 YEARS,
VATTAVILAYIL JEO COTTAGE, NEDUMON MURI, ENADIMANGALAM
VILLAGE, ADOOR TALUK, PATHANAMTHITTA DISTRICT**

BY ADV. SRI.AJITH MURALI

RESPONDENTS :

- 1. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM - 695001.**
- 2. THE DISTRICT COLLECTOR, KOTTAYAM,
PATHANAMTHITTA DISTRICT - 689645.**
- 3. THE REVENUE DIVISIONAL OFFICER,
ADOOR, PATHANAMTHITTA DISTRICT - 689645.**
- 4. THE VILLAGE OFFICER, ENADIMANGALUM VILLAGE,
PATHANAMTHITTA DISTRICT - 689645.**
- 5. THE SECRETARY, ENADIMANGALUM GRAMA PANCHAYATH
ADOOR TALUK, PATHANAMTHITTA DISTRICT**
- 6. THE SENIOR GEOLOGIST, DEPARTMENT OF MINING AND
GEOLOGY, PATHANAMTHITTA DISTRICT - 689645.**

BY GOVERNMENT PLEADER SRI. BIJU MEENATOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 27534 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE BUILDING PERMIT NO B1-5231/2014 DT 28/10/2014 ISSUED BY THE R5 SECRETARY OF ENDIMANGALUM GRAMA PANCHYATH.
- P2: COPY OF THE REPORT NO. 144/2015 DT 22/6/2015 SUBMITTED BY THE R4 BEFORE THE TAHSILDAR, ADOOR.
- P3: COPY OF THE LOCATION SKETCH PREPARED BY THE R4.
- P4: COPY OF THE WORK ORDER ISSUED BY THE ISSUED BY POONAM GRAH NIRMAN (P) LTD COMPANY, MANI MADAM AMBALAPUZHA DT 24/3/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No.27534 of 2015

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Dated this the 11th day of September, 2015

J U D G M E N T

The case of the petitioners is that, on the strength of Ext.P1 Building Permit, the petitioners levelled the property by removing ordinary earth for construction of a residential building. But when the petitioners approached the 6th respondent/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 petitioners 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/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”], on being satisfied with the genuineness of the claim of the petitioners 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 petitioners shall produce a copy of this judgment along with a copy of the writ petition before the 6th respondent/District Geologist for further steps.

The writ petition is disposed of.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE