

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. 28006 of 2015 (A)

PETITIONER:

**SREENIVASAN,
S/O.MANIKANDAN NAIR @ MANI,
PUTHENVEETIL HOUSE, THENGODUKARA,
THENGODE.P.O., ERNAKULAM DISTRICT.**

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENT(S):

- 1. VILLAGE OFFICER, VILLAGE OFFICE,
KAKKANAD, ERNAKULAM DISTRICT - 682 021.**
- 2. DISTRICT COLLECTOR, ERNAKULAM DISTRICT,
CIVIL STATION, ERNAKULAM, KAKKANAD,
KOCHI - 682 030.**
- 3. GEOLOGIST, DEPARTMENT OF MINING & GEOLOGY,
DISTRICT OFFICE, CIVIL STATION, KAKKANAD,
KOCHI - 682 030.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

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

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : A TRUE COPY OF THE DOCUMENT NO.3449/2014 OF SRO,
 THRIKKAKKARA DATED 4.10.2014.
- EXT. P2 : A TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE
 VILLAGE OFFICER, KAKKANAD DATED 15.1.2015 IN RESPECT OF
 EXT. P1 PROPERTY.
- EXT. P3 : A TRUE COPY OF THE BUILDING PERMIT NO.TPI-TBA(4552)/2015
 DATED 16.2.2015 ALONG WITH APPROVED PLAN ISSUED BY THE
 THRIKKAKKARA MUNICIPALITY.
- EXT. P4 : A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
 PETITIONER BEFORE THE 3RD RESPONDENT DATED 15.3.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.28006 of 2015

Dated this the 16th day of September, 2015.

J U D G M E N T

The case of the petitioner is that, on the strength of Ext.P3 building permit, the petitioner levelled the property by removing ordinary earth for construction of a residential building. But when the petitioner approached the 3rd 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 Government Pleader as well.

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, the 3rd 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 petitioner based on Ext.P3 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 copy of this judgment. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the 3rd respondent/District Geologist for further steps.

The writ petition is disposed of.

Sd/-
A.MUHAMED MUSTAQUE,
Judge.

ami/

//True copy//

P.A.to Judge