

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 28253 of 2015 (F)

PETITIONER :

**SHANTHA, AGED 59 YEARS, D/O. NARAYANAN,
PUTHENKULANGARA, POOTHRIKKA P.O.,
AIKKARANADU SOUTH VILLAGE, KUNNTHUNADU TALUK,
ERNAKULAM DISTRICT**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS :

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
ERNAKULAM DISTRICT - 682030.**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASPURAM, PATTAM, THIRUVANANDAPURAM-695001**
- 3. THE STATE OF KERALA REPRESENTED BY SECRETARY
TO GOVERNMENT INDUSTRIES DEPARTMENT,
GOVERNMENT OF KERALA, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM - 695001.**

BY GOVERNMENT PLEADER SRI. C.K. SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 28253 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE BUILDING PERMIT DT 24/8/2015 ISSUED BY THE SECRETARY, POOTHRIKKA GRAMA PANCHAYATH.**
- P2: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DT 31/8/2015.**
- P3: COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DT 10/9/2015 IN WPC NO. 27299 OF 2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 28253 of 2015

Dated this the 17th day of September, 2015

J U D G M E N T

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 1st 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 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, first 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.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 1st respondent/District Geologist for further steps.

This writ petition is disposed of as above.

sd/-
A.MUHAMED MUSTAQUE,
Judge

MBS/

WP(C).NO.28253 OF 2015

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