

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 29859 of 2015 (F)

PETITIONER(S):

**MANOJ, AGED 42 YEARS,
S/O.DINAKARAN, PERUMBALA VEEDU,
THIRUTHIKKADU DESOM, PORKULAM VILLAGE,
KUNNAMKULAM, THRISSUR DISTRICT.**

**BY ADVS.SRI.HRITHWIK,
SRI.SHAJIN S.HAMEED.**

RESPONDENT(S):

- 1. THE REVENUE DIVISIONAL OFFICER,
THRISSUR, REVENUE DIVISIONAL OFFICE,
AYYANTHOLE, THRISSUR, PIN-680 003.**
- 2. THE TAHSILDAR,
THALAPPILLY TALUK, TALUK OFFICE,
THALAPILLY, WADAKANCHERY P.O.,
THRISSUR DISTRICT, PIN-680 682.**
- 3. THE GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
DISTRICT OFFICE, MINI CIVIL STATION,
CHEMPUKAVU, THRISSUR DISTRICT-682 020.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE SALE DEED NO.575/2012 EXECUTED ON 08/03/2012.
- EXT.P2 COPY OF THE POWER OF ATTORNEY EXECUTED BY THE
LAND OWNERS IN THE NAME OF PETITIONER DATED 29/03/2015.
- EXT.P3 COPY OF THE BUILDING PLAN APPROVED BY THE
KIDANGODE GRAMA PANCHAYAT.
- EXT.P4 COPY OF THE BUILDING PERMIT NO.A3/96/765/14/15
DATED 04/03/2015 ISSUED BY THE SECRETARY,
KADANGODE GRAMA PANCHAYAT.
- EXT.P5 COPY OF THE APPLICATION MADE BY THE PETITIONER
DATED 21/04/2015 BEFORE THE 3RD RESPONDENT.
- EXT.P5A COPY OF THE RECEIPT NO.1103/C2/TDO/2015 DATED 21/04/2015
ISSUED FROM THE OFFICE OF THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.29859 of 2015

Dated this the 1st day of October, 2015

JUDGMENT

The case of the petitioner is that, on the strength of Ext.P4 building permit, the petitioner intends to construct a residential building for which purpose ordinary earth has to be removed from the property. But when the petitioner approached the third respondent/Geologist with a request for issuance of Mineral Transit pass to transport the ordinary 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, third respondent/ 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"], without insisting for 'NOC'/Mining permit; however, the same shall be only on satisfaction of the genuineness of the claim of the petitioner based on the building permit issued by the Local Self Government Institution. It is made clear that the mining passes shall be issued only after the ordinary earth to be transported is stacked in the property which has to be physically inspected by the Geologist. The Geologist shall also issue as many number of passes as there are vehicles required for transporting the heaped quantity of ordinary earth after ensuring that the entire details required in form O(A) is filled up by the petitioner. The petitioner shall also be liable to surrender the passes after the period expires. It goes without saying that the destination to which the ordinary earth is to be taken has to be specified in the passes, before it is issued by the respondent. The above exercise shall be done immediately on the

petitioner approaching the Geologist, at any rate, within a period of two weeks from the date of such application being filed.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ln