

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. 29904 of 2015 (K)

PETITIONER :

**SINDHURAJ, AGED 42 YEARS,W/O. RENJAN,
RESIDING AT REVATHY, PALAYAMKUNNU P.O.,
KOLLAM DISTRICT-695 146.**

BY ADV. SRI.V.A.AJIVAS

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR , KOLLAM. PIN-691 001**
- 3. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
KOLLAM DISTRICT, KOLLAM-691 001**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

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

sts

WP(C).No. 29904 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE NO-OBJECTION CERTIFICATE DTD. 9.6.2015, ISSUED TO THE PETITIONER.**
- P2 : COPY OF THE POSSESSION CERTIFICATE ISSUE BY THE KALLUVATHUKKAL VILLAGE OFFICER.**
- P3 : COPY OF THE NOTIFICATION DTD. 4.10.2014 SUBMITTED BY THE PETITIONER.**
- P4 : COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.**
- P5 : COPY OF THE JUDGMENT DTD. 19.9.2014 IN WPC NO.24217/2014.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 29904 of 2015

Dated this the 1st day of October, 2015

J U D G M E N T

The case of the petitioner is that, on the strength of 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/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, 3rd respondent/Senior

Geologist is directed to issue 'Mineral Transit Pass' in Form (OA) 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 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 third respondent/Senior Geologist for further steps. The first respondent need not insist the number of vehicle being deployed by the petitioner for transportation.

The writ petition is disposed of.

sd/-

A.MUHAMED MUSTAQUE,
Judge

MBS/

-true copy-

P.S.TO JUDGE

WP(C).NO. 29904 of 2015

:-4-: