

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 30001 of 2015 (A)

PETITIONER(S) :

**JAMEELA IQBAL, W/O.DR.A.M.IQBAL,
MALAS HOUSE, KUMARAPUAM P.O,
THIRUVANANTHAPURAM, PIN- 695 011.**

**BY ADVS.SRI.P.N.SANTHOSH
SMT.K.P.GEETHA MANI**

RESPONDENT(S) :

**THE DISTRICT GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT, CIVIL STATION,
KAKKANAD, ERNAKULAM, PIN- 682 030.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: A TRUE COPY OF THE POSSESSION CERTIFICATE
DATED 16.06.2015 ISSUED BY THE VILLAGE OFFICER, ALUVA EAST
VILLAGE.**

**EXHIBIT P2: A TRUE COPY OF THE BUILDING PERMIT NO.BP487/2015
DATED 16.09.2015 ISSUED TO THE PETITIONER BY THE EDATHALA
GRAMA PANCHAYAT.**

**EXHIBIT P3: A TRUE COPY OF THE APPLICATION DATED 22.09.2015
SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT
REQUESTING TO ISSUED NECESSARY TRANSIT PASSES.**

**EXHIBIT P4: A TRUE COPY OF THE AFFIDAVIT DATED 13.08.2015 SUBMITTED
BY THE PETITIONER BEFORE THE RESPONDENT.**

**EXHIBIT P5: A TRUE COPY OF THE AFFIDAVIT DATED 13.08.2015 SUBMITTED
BY THE PETITIONER BEFORE THE RESPONDENT.**

**EXHIBIT P6: A TRUE COPY OF THE JUDGMENT DATED 10.08.2015 IN
W.P.(C).NO.27299/2015 OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 30001 of 2015

Dated this the 5th day of October, 2015

J U D G M E N T

The case of the petitioner is that, on the strength of Ext.P2 Building Permit, the petitioner levelled the property by removing ordinary earth for construction of a residential building. But, when the petitioner approached the 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, respondent/District

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 Ext.P2 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 first respondent/District Geologist for further steps.

The writ petition is disposed of.

sd/-

A.MUHAMED MUSTAQUE,
Judge

MBS/

WP(C).NO. 30001 of 2015

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