

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 35326 of 2015 (M)

PETITIONER(S):

**RAJIVE PAUL, AGED 42 YEARS,
S/O.C.P.PAUL, CHUNGATH HOUSE, MICROWAVE STATION ROAD,
ASRAMAM, KADAPPAKKADA, KOLLAM-691 008.**

BY ADV. SRI.K.I.SAGEER

RESPONDENT(S):

**GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY, DISTRICT OFFICE,
COLLECTORATE, KAKKANAD, ERNAKULAM,
PIN-682 030.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 35326 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: A TRUE COPY OF THE POSSESSION CERTIFICATE NO.1508/2015
DTD.17.11.2015 ISSUED BY THE VILLAGE OFFICER, CHENGAMANAD.**

**EXT.P2: A TRUE COPY OF THE BUILDING PERMIT NO.89/2015-16 DTD.29.10.2015
ISSUED BY THE CHENGAMANAD GRAMA PANCHAYATH TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 35326 of 2015

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Dated this the 21st day of November, 2015

J U D G M E N T

The petitioner is constructing a multi storied apartment for residential purposes having a plinth area of 3695.64 sq.m. Ext.P2 is the building permit.

2. The petitioner submits that he is entitled for OA forms without insisting for quarrying permit in terms of Rule 14 of the Kerala Minor Mineral Concession Rules 2015 (herein after called 'KMMC Rule'.

3. The learned Government Pleader submits that though the construction of apartment for residential purposes, is a commercial venture of the builder. Therefore it can be treated as only coming under the Rule 106 of the KMMC Rule. The Rule 106 of the KMMC Rules reads as follows:

“Extraction of minerals for special purposes – (1) In any case or class of cases such as construction of common facilities or residential building where extraction of minor mineral is inevitable as a part of the work, the person doing such work may be exempted from obtaining quarrying permit/lease under these

rules:

Provided that before extraction of minor minerals, the person concerned shall intimate the competent authority his intention to carryout the works to be performed and shall furnish necessary documents as required by the competent authority in this regard. If the extracted mineral is to be transported outside the worksite, the competent authority may issue special mineral transit passes after collecting the royalty."

4. In terms of Rule 106, this Court is of the view that the petitioner can be given necessary O.A form after collecting royalty. The petitioner also submits that he is satisfied, if any direction is given in terms of Rule 106 of KMMC Rules. In the light of above, there shall be direction to the Geologist to issue necessary O.A forms to the petitioner on collecting royalty in terms of Rule 106 of the KMMC Rules.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE