

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 35902 of 2015 (K)

PETITIONER:

**SUBRAHMONIAN, S/O.RAVUNNY,
AGED 58 YEARS, CHIRAKKATUKUZHAYIL HOUSE,
DESAMANGALAM P.O., THRISSUR DISTRICT - 679 532.**

**BY ADVS.SRI.SHOBY K.FRANCIS
SMT.MISHAL M.DASAN**

RESPONDENT(S):

- 1. DISTRICT GEOLOGIST,
OFFICE OF THE GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR - 680 003.**
- 2. THE DIRECTOR OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE VILLAGE OFFICER, PALLUR VILLAGE,
DESAMANGALAM P.O. - 679 532, THRISSUR DISTRICT.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 35902 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1. TRUE COPY OF THE BASIC TAX RECEIPT DATED 29.07.15 ISSUED BY
 THE VILLAGE OFFICER.**
- EXT.P2. TRUE COPY OF THE NO OBJECTION CERTIFICATE (BUILDING PERMIT)
 ISSUED BY THE PANCHAYATH DATED 03.09.15 TO THE PETITIONER.**
- EXT.P3. TRUE COPY OF THE POSSESSION CERTIFICATE DATED 10.09.15
 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.35902 of 2015

Dated this the 27th day of November, 2015

JUDGMENT

The case of the petitioner is that, on the strength of Ext.P2 No Objection Certificate, 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 1st respondent/District 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, 1st 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.P2 No Objection Certificate 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 1st 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

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