

**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. 36024 of 2015 (C)**  
-----

**PETITIONER(S) :**  
-----

**JOHN, AGED 47 YEARS,  
S/O.PHILIPOSE, VADAKKEKARACHALUVELIL,  
KUZHIMATTOM P.O., PANACHIKKADU VILLAGE, KOTTAYAM TALUK,  
KOTTAYAM DISTRICT.**

**BY ADV. SRI.P.M.ZIRAJ**

**RESPONDENT(S) :**  
-----

- 1. THE DISTRICT GEOLOGIST,  
DEPARTMENT OF MINING AND GEOLOGY,  
KOTTAYAM DISTRICT- 686 533.**
- 2. THE DIRECTOR,  
MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY,  
KESAVADASAPURAM, PATTAM, THIRUVANANTHAPURAM- 695 001.**
- 3. THE STATE OF KERALA,  
REPRESENTED BY SECRETARY TO GOVERNMENT,  
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.**

**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:**

Msd.

**WP(C).No. 36024 of 2015 (C)**  
-----

**APPENDIX**

**PETITIONER(S)' EXHIBITS :**  
-----

**EXHIBIT P1: TRUE COPY OF THE BUILDING PERMIT DATED 29.10.2015 ISSUED  
BY THE SECRETARY, PANACHIKKADU GRAMA PANCHAYATH.**

**EXHIBIT P2: TRUE COPY OF THE CERTIFICATE DATED 18.11.2015 ISSUED BY  
THE ENGINEER OF MUNICIPAL ADMINISTRATION, GOVERNMENT  
OF KERALA.**

**EXHIBIT P3: TRUE COPY OF THE APPLICATION SUBMITTED BY  
THE PETITIONER BEFORE THE FIRST RESPONDENT  
DATED 19.11.2015.**

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

**NIL**

**//TRUE COPY//**

**P.A.TO JUDGE.**

Msd.

**A. MUHAMED MUSTAQUE, J**

-----  
**W.P(C) No. 36024 of 2015**  
-----

**Dated this the 27<sup>th</sup> day of November, 2015**

**JUDGMENT**

The case of the petitioner is that, on the strength of Ext.P1 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 1<sup>st</sup> respondent/The 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, the 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.P1 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 along with a copy of the writ petition before the first respondent/ District Geologist for further steps.

The writ petition is disposed of as above.

Sd/-

**A. MUHAMED MUSTAQUE  
JUDGE**