

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 36445 of 2015 (E)

PETITIONER :

**KALIKUTTY,
W/O.LATE SANKARAN, KAKKATTUKUNNU COLONY,
VARAVOOR VILLAGE DESOM, THALAPPILLY TALUK,
THRISSUR DISTRICT,
REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER SRI.PRABHAKARAN.K.,
S/O. SANKARAN, AGED 47 YEARS,
KUNNATH HOUSE, PALLUR VILLAGE,
VARAVATTOOR DESOM, THRISSUR DISTRICT.**

**BY ADVS.SRI.SHOBY K.FRANCIS
SMT.AGI SHOBY
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,
DESAMANGALAM VILLAGE, DESAMANGALAM.P.O.,
THRISSUR -679 532**

BY GOVERNMENT PLEADER SMT. C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 36445 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1 TRUE COPY OF THE BASIC TAX RECEIPT DATED 29-06-2015 ISSUED
 BY THE VILLAGE OFFICER.**

**EXT.P2 TRUE COPY OF THE POSSESSION CERTIFICATE DATED 19-10-2015
 ISSUED BY THE 3RD RESPONDENT**

**EXT.P3 TRUE COPY OF THE NOC FOR CONSTRUCTION OF RESIDENTIAL
 BUILDING ISSUED BY THE LOCAL GRAMA PANCHAYATH TO THE
 PETITIONER DATED 19-11-2015**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE,J

W.P.(C)No. 36445 of 2015

Dated this the 2nd day of December, 2015

JUDGMENT

The case of the petitioner is that, on the strength of Ext.P3. No Objection Certificate, the petitioner levelled the property by removing ordinary earth for construction of a residential building. But when the petitioner approached the 1st 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, 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 Exhibit P3, No Objection Certificate, 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 1st respondent/District Geologist for further steps.

The writ petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

//True Copy//

P.A. To Judge