

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

WP(C).No. 37241 of 2015 (E)

PETITIONER :

**REMANI, W/O.KURIYAN, AGED 58 YEARS,
VAKATHANAM P.O., CHANGANASSERY TALUK,
KOTTAYAM DISTRICT.**

BY ADV. SRI.P.M.ZRAJ

RESPONDENT(S):

- 1. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
KOTTAYAM DISTRICT, PIN-686 002.**
- 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 SMT. C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 37241 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE BUILDING PERMIT DATED 12/2/2015 ISSUED BY THE SECOND RESPONDENT ON BEHALF OF THE FIRST RESPONDENT
- P2: TRUE COPY OF THE ORDER OF DISTRICT GEOLOGIST, KOTTAYAM DATED 27/5/2015.
- P3: TRUE COPY OF THE ORDER DATED 8/6/2015 ISSUED BY THE SECRETARY, VAKATHANAM GRAMA PANCHAYATH.
- P4: TRUE COPY OF THE INTERIM ORDER OF THIS HONOURABLE COURT DATED 15/6/2015 IN WPC NO.17825 OF 2015
- P5: TRUE COPY OF THE INTERIM ORDER OF THIS HONOURABLE COURT DATED 3/7/2015 IN WPC NO.17825/2015.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

=====

W.P.(C).No. 37241 of 2015

=====

Dated this the 9th day of December, 2015

J U D G M E N T

The petitioner is a holder of building permit and thereby authorized him to construct residential building. The petitioner has been granted OA forms to extract and remove ordinary earth from the site covered by the building permit. The Panchayat issued a stop memo as it was found that the petitioner is removing excess quantity of ordinary earth. This was challenged before this Court. This Court stayed the order of the Panchayath.

2. The petitioner submits that he need to remove and transport the balance earth accumulated in the site. The permit already granted has been expired. Therefore the Geologist shall renew and permit him to remove and transport. The learned counsel for the petitioner submits that the Geologist is not granting further permit and OA forms on account of the fact that the writ petition is pending, challenging the decision of the Panchayat.

3. This Court is of the view that the Geologist shall verify the earth to be removed from the site after taking note of the plinth area of the building. If he satisfied that the petitioner 's claim is bonafide and entitled to remove the entire earth accumulated in the site necessary permit and OA form shall be issued to the petitioner to remove and transport balance earth. Needful shall be done without insisting for environmental clearance. Appropriate action shall be taken within two weeks from the date of receipt of the copy of this judgment after conducting a site inspection.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE