

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. 37292 of 2015 (J)

PETITIONER:

**P.K MATHAI, AGED 79 YEARS,S/O.KOSHY,
POWATHU PUTHEN VEEDU, MANJINIKKARA,
OMALLOOR, ALAPPUZHA.**

**BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

RESPONDENTS:

**1. THE TAHSILDAR,
TALUK OFFICE, KOZHENCHERRY, PIN -689 641**

**2. THE VILLAGE OFFICER,
VILLAGE OFFICE, OMALLOOR,
PATHANAMTHITTA -689 645**

***ADDL.R3 IMPEADED**

***ADDL.R3: THE GEOLOGIST,
PATHANAMTHITTA.**

***IS SUO MOTU IMPEADED AS PER ORDER DATED 9/12/2015.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**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. 37292 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- COPY OF THE BUILDING PERMIT**
P2:- COPY OF THE PERMIT ISSUED BY THE GEOLOGIST
P3:- COPY OF THE JUDGMENT IN POLICE PROTECTION
P4:- COPY OF EXTENDED PERMIT ISSUED BY THE GEOLOGIST
P5:- COPY OF THE STOP MEMO BY THE 2ND RESPONDENT

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

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.37292 of 2015

Dated this the 9th day of December, 2015

JUDGMENT

The petitioner, based on Ext.P1 building permit was permitted to remove the ordinary earth. The validity of the permit was expired on 5.12.2015. The petitioner submits that he could not remove the entire quantity from the site. The petitioner submits that in the meanwhile, the Village Officer issued a stop memo and in the light of the stop memo, the Geologist refused to renew the permit.

2. The stop memo is produced as Ext.P5. It is stated therein that the petitioner violated the conditions in the permit.

This Court is of the view that if there is any violation of the conditions, the Village Officer ought to have brought to the notice of the Geologist. The Village Officer cannot take any action if there is any violation of permit. Accordingly, Ext.P5 is set aside. There

shall be a direction to the Geologist to consider the application for renewal after adverting to any violation committed by the petitioner. If sufficient quantity has not been removed based on the building permit, necessarily, the permit shall be renewed and necessary O(A) forms shall be issued to the petitioner. However, if it is found that the petitioner has violated any terms and conditions in the permit, it is for the Geologist to take appropriate action. Needful shall be done within two weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

In