

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 38992 of 2015 (Y)

PETITIONER(S) :

**SUNILKUMAR, AGED 40 YEARS,
S/O.CHANDRAN PILLAI, VASANTH NIVAS, EDAPPON,
PATTOOR MURI, NOORANAD VILLAGE, MAVELIKKARA TALUK,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.AJITH MURALI

RESPONDENT(S) :

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM- 695 001.**
- 2. THE DISTRICT COLLECTOR, KOTTAYAM,
ALAPPUZHA DISTRICT- 688 001.**
- 3. THE REVENUE DIVISIONAL OFFICER,
ALAPPUZHA, CHENGANNUR TALUK, ALAPPUZHA DISTRICT- 688 161.**
- 4. THE VILLAGE OFFICER,
NOORANAD VILLAGE, MAVELIKKARA TALUK,
ALAPPUZHA DISTRICT- 688 141.**
- 5. THE SECRETARY,
NOORANAD GRAMA PANCHAYATH, MAVELIKKARA TALUK,
ALAPPUZHA DISTRICT- 688 141.**
- 6. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
ALAPPUZHA DISTRICT- 688 001.**

R1 TO R4 & R6 BY GOVERNMENT PLEADER SRI.GIKKU JACOB

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 38992 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: THE TRUE COPY OF THE BUILDING PERMIT NO.C3-670/2015
DATED 20.02.2015 ISSUED BY THE 5TH RESPONDENT; SECRETARY
OF NOORANAD GRAMA PANCHAYATH.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.Muhamed Mustaque, J.

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W.P.(C)No.38992 of 2015

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Dated this the 21st day of December, 2015.

JUDGMENT

1. The case of the petitioner is that, on the strength of Ext.P1 Building Permit, the petitioner levelled the property by removing ordinary earth for construction of a residential building. But when the petitioner approached the 6th 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, 6th respondent/Senior 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 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. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the 6th respondent/Senior Geologist for further steps.

The writ petition is disposed of as above.

Muhamed Mustaque, Judge.

sl.