

Kerala High Court

Elikutty vs The District Geologist on 5 December, 2015

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9600 of 2015 (Y)

PETITIONER(S):

ELIKUTTY, W/O. JOSEPH,
AGED 76 YEARS, PERUMATTIKUNNIL,
VANIYAMPARA P.O., PEECHI VILLAGE,
THRISSUR TALUK, THRISSUR DISTRICT.

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENT(S):

1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT- 680 001.
2. THE VILLAGE OFFICER, PEECHI VILLAGE,
THRISSUR DISTRICT-680 652.
3. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM,
THIRUVANANTHAPURAM- 695 001.
4. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.
5. THE REVENUE DIVISIONAL OFFICER,
THRISSUR, PIN-680 001.

BY SR. GOVT.PLEADER SRI.K.C. VINCENT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 9600 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE NO OBJECTION CERTIFICATE 29.12.2014 ISSUED BY THE SECRETARY, PANANCHERY GRAMA PANCHAYATH.

EXHIBIT P2: TRUE COPY OF THE PLAN OF PROPOSED RESIDENTIAL BUILDING.

EXHIBIT P3: TRUE COPY OF THE CERTIFICATE DATED 05.12.2015 ISSUED BY THE ASSISTANT ENGINEER OF LOCAL SELF GOVERNMENT DEPARTMENT SECTION, PANANCHERRY GRAMA PANCHAYATH.

EXHIBIT P4: TRUE COPY OF THE ORDER DATED 20.01.2015 ISSUED BY THE FIRST RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE COMPLAINT SUBMITTED BY MR. MARCOSE AGAINST THE PETITIONER BEFORE THE FIFTH RESPONDENT DATED 03.02.2015.

EXHIBIT P6: TRUE COPY OF THE LETTER ISSUED BY THE FIRST RESPONDENT TO THE SECOND RESPONDENT DATED 09.02.2015.

EXHIBIT P7: TRUE COPY OF THE REPORT SUBMITTED BY THE SECOND RESPONDENT TO THE FIRST RESPONDENT DATED 20/02/2015.

EXHIBIT P8: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 05.11.2014 IN WP(C).NO.27596 OF 2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S.TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

.....
W.P. (C)No.9600 OF 2015
.....

Dated this the 25th March, 2015

J U D G M E N T

The petitioner has been issued Ext.P4 order to remove the earth for construction and Form O(A) for transportation of the said earth to remove from the property. But the petitioner could not remove the sanctioned quantity of earth during the validity period of Ext.P4. Hence the petitioner again approached the first respondent/District Geologist for issuance of necessary Form O(A) for transportation of balance earth, which is still 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 of 300 square metres, if the owner of the land has obtained a prior valid permit for construction of such building from the Local Self Government authorities concerned, are exempted from obtaining quarrying permit under the Rules. The said Rule reads as follows:

"14. Quarrying permit for Ordinary W.P.(C)No.9600 OF 2015 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."

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4. Accordingly, the first respondent/District Geologist is directed to conduct a spot inspection with notice and issue 'Mineral Transit Pass' in Form O(A), on being satisfied with the genuineness of the claim of the petitioner based on Ext.P1 in accordance with law, which shall be done at the earliest at any rate within 'ten days' 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 first respondent/Geologist for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON JUDGE lk