

Thomas Kottommannil vs the District Collector

Thomas Kottommannil vs the District Collector

SooperKanoon Citation : sooperkanoon.com/1588949

Court : Kerala

Decided On : Dec-30-2022

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/42887/2022

Appellant : Thomas Kottommannil

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH FRIDAY,
THE 30TH DAY OF DECEMBER 2022 / 9TH POUSHA, 1944 WP(C)
NO. 42887 OF 2022 PETITIONER: THOMAS KOTTOMMANNIL AGED
55 YEARS S/O VARGHESE ABRHAM, KOTTAMANNIL HOUSE,
KEEKOZHOOOR P.O, CHERUKOLE VILLAGE, RANNI TALUK,
PATHANAMTHITTA DISTRICT, PIN-689672. BY ADVS. AJITH MURALI
MOHANAN M.K. RESPONDENTS:

1 THE DISTRICT COLLECTOR PATHANAMTHITTA,
PATHANAMTHITTA DISTRICT, PIN-689645. 2 THE VILLAGE
OFFICER, CHERUKOLE VILLAGE, RANNI TALUK, PATHANAMTHITTA

DISTRICT, PIN-689672. 3 THE SECRETARY, CHERUKOLE GRAMA PANCHYATH, CHERUKOLE (P.O), RANNI TALUK, PATHANAMTHITTA DISTRICT, PIN- 689672. 4 THE SENIOR GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY, OFFICE OF THE DEPARTMENT OF MINING AND GEOLOGY, ADOOR, PATHANAMTHITTA DISTRICT, PIN-691523. SMT.ANIMA GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

30.12.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 30th day of December, 2022 The petitioner, who is owner of 7.70 Ares of property in Re-survey No.44/1-1 in Block No.5 of Cherukole Village of Ranni Taluk in Pathanamthitta District, has filed this writ petition seeking to direct the 4th respondent to issue Mineral Transit Pass to the petitioner.

2. The petitioner is owner of 7.70 Ares of property. The

petitioner desires to construct a building in the property. The petitioner therefore approached the Cherukole Grama Panchayat and has obtained a Building Permit.

3. Construction of the building requires levelling of land

and removal of ordinary earth. The petitioner therefore submitted Ext.P3 application to the 4th respondent-Senior Geologist seeking to issue Mineral Transit Pass to the petitioner for transportation of ordinary earth.

4. Though the application for Mineral Transit Pass was

submitted on 27.12.2022, the 4th respondent has not considered the same. Unless the 4th respondent considers the application expeditiously and issues Mineral Transit Pass at the earliest, the petitioner will be put to untold hardship and financial loss, contends the petitioner.

5. The Government Pleader entered appearance on

behalf of respondents 1, 2 and 4 and defended the writ petition. The Government Pleader controverted all material allegations made by the petitioner, in the writ petition.

6. On behalf of the 4th respondent, it is submitted that a

large number of applications for Mineral Transit Passes are pending consideration before the 4th respondent. Issuance of Mineral Transit Passes would require due verification of the credibility of application and may involve Site Visits also. Considering the work load in the office of the 4th respondent, at least three months time is required to take a decision on such applications.

7. The Government Pleader submitted that application

for Mineral Transit Pass being a statutory application, if the petitioner has submitted application supported by all requisite documents, the same can be considered in accordance with law.

8. Heard the learned counsel for the petitioner and the

learned Government Pleader representing respondents 1, 2 and 4. In view of the nature of reliefs being granted in the writ petition, notice to the 3rd respondent is dispensed with.

9. The petitioner wants to construct a building in his

property and has obtained a Building Permit. Construction of the building would require levelling of land and removal and transportation of ordinary earth. The petitioner therefore requires Mineral Transit Pass and has submitted an application for the same.

10. Rule 26(4) of the Kerala Minerals (Prevention of

Illegal Mining, Storage and Transportation) Rules, 2015 declares that any consignment of minerals without a valid Transit Pass shall be considered as illicit and the competent authority and authorised officer may recover the mineral from the person and also seize the receptacles in which the same is found and the

carrier used in carrying the same.

11. The application submitted by the petitioner for

Mineral Transit Pass therefore is a statutory requirement. The competent authority therefore is bound to consider the application in accordance with law within a reasonable time. The writ petition is therefore disposed of directing the 4th respondent to consider Ext.P3 application filed by the petitioner and take appropriate decision thereon in accordance

with law, as expeditiously as possible and at any rate, within a period of two months. sd/- N.NAGARESH JUDGE hmh APPENDIX OF WP(C) 42887/2022 PETITIONER EXHIBITS Exhibit P1 THE TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE 2ND RESPONDENT DATED 04.11.2022. Exhibit P2 THE TRUE COPY OF THE SITE APPROVAL AND BUILDING PERMIT NO.C6-BA-329900/2022 DATED 20.10.2022 ISSUED BY THE 3RD RESPONDENT PANCHAYATH. Exhibit P3 A TRUE COPY OF THE APPLICATION DATED 27.12.2022 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT RESPONDENTS EXHIBITS : NIL

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com