

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF DECEMBER 2013/29TH AGRAHAYANA, 1935

WP(C).No. 3167 of 2013 (U)

PETITIONER(S):

- 1. SHIBUKUMAR, KUNNEL HOUSE,
KUNTHIRICKAL P.O., THALAVADY,
EDATHUA, ALAPPUZHA DISTRICT.**
- 2. ABDUL SALAM, KUNNATHU HOUSE,
ULIYANNOOR P.O., KADUNGALLOOR,
ERNAKULAM DISTRICT.**

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR).

RESPONDENT(S):

- 1. THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. DISTRICT COLLECTOR,
ALAPPUZHA -688 001.**
- 3. HEAD QUARTERS DEPUTY TAHSILDAR,
CHANGANASSERY-689 101.**
- 4. VILLAGE OFFICER,
CHANGANASSERRY- 689 101.**
- 5. DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM - 695 001.**

BY GOVT. PLEADER SMT.K.A. SANJEETHA.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-12-2013, ALONG WITH WP(C).NO. 3328 OF 2013 AND
CONNECTED CASES, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- | | |
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| EXT.P-1 | TRUE COPY OF THE REGISTRATION CERTIFICATES OF THE VEHICLE BEARING REG.NO.KL-04-AD-2569. |
| EXT.P-2 | TRUE COPY OF THE REGISTRATION CERTIFICATES OF THE VEHICLE BEARING REG.NO.KL-44-A-7791. |
| EXT.P-3 | TRUE COPY OF THE PROCEEDINGS OF THE REVENUE DIVISIONAL OFFICER, ALAPPUZHA DATED 18.12.2012. |
| EXT.P-4 | TRUE COPY OF THE MAHAZAR PREPARED BY THE VILLAGE OFFICER, CHANGANASSERY. |
| EXT.P-5 | TRUE COPY OF THE NOTIFICATION NO.20553/K2/88/ID DATED 22.12.1988 (SRO 139/88 DATED 24.01.1989). |
| EXT.P-6 | TRUE COPY OF THE NOTIFICATION ISSUED UNDER SRO 827/91 PUBLISHED ON 26.06.1991. |
| EXT.P-7 | TRUE COPY OF THE NOTIFICATION NO.32010/L2/93/ID DATED 22.06.1995 (SRO 890/95 DATED 04.07.1995). |

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

.....
**W.P.(C)No. 3167, 3328,
3478. 3493, 3551, 3630,
3746, 4025, 4061 & 4167
OF 2013**
.....

Dated this the 20th December, 2013

J U D G M E N T

The power and authority of the concerned respondents (Police/Revenue/Mining and Geology Department) to effect seizure of the vehicles engaged in raising/transporting 'ordinary earth' in contravention of the provisions of the Mines and Minerals (Development and Regulation) act, 1957/ Kerala Minor Mineral Concession Rules, 1967 (hereinafter referred to as 'MMDR Act/KMMC Rules') is under challenge in these writ petitions. The issue is squarely covered by the decision rendered by this Court as per common judgment dated 19.12.2013 in W.P.(C).No. 12398 of 2013 and connected cases and it stands against the petitioners. In the said circumstance, interference is declined and the writ petitions are dismissed accordingly.

2. It is made clear that, the dismissal of these writ petitions will not stand in the way of the petitioners in seeking for compounding the offence in view of the enabling provisions under the MMDR Act, 1957 and the KMMC Rules, 1967.

3. Coming to the extent of amount to be satisfied as compounding fee, the Rules specifically stipulate that any offence under the Rules can be compounded subject to the satisfaction of the maximum fine prescribed under the Rules, which is stated as Rs. 5,000/-. But in respect of the transportation of sand/earth without any valid pass/sanction, it is stated as an offence under the 'Act' itself by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the 'Act' itself. The maximum fine in respect of such offence prescribed under the 'Act' is stated as Rs. **25,000/-**-(Rupees twenty five thousand only). It is in the said circumstance, that this Court has been passing orders enabling the concerned petitioners to have interim custody of the vehicle on satisfaction of a sum of Rs. **25,000/-**-(Rupees twenty five thousand only), also directing the concerned respondent to consider the application for compounding, if any.

4. If the petitioners are desirous to have the offence compounded, conceding the guilt, it is for them to approach the concerned respondent/authorised officer by filing necessary

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3746, 4025, 4061 & 4167 OF 2013**

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application in this regard and once the offence is compounded, no further prosecution proceedings shall lie against them.

**P.R.RAMACHANDRA MENON
JUDGE**

/k