

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. 5340 of 2013 (N)

PETITIONER :

**BABU V. KURIAKOSE, SON OF KURIAKOSE, AGED 39 YEARS,
RESIDING AT VETTUKATTIL HOUSE,
MANALITHARA.P.O., MANALITHARA VILLAGE, THALAPPILLY TALUK,
THRISSUR DISTRICT (OWNER OF LORRY BEARING
REGISTRATION NUMBER KL-17-A- 3601)**

BY ADV. SRI.P.MZIRAJ

RESPONDENT :

**THE SUB INSPECTOR OF POLICE,
WADAKKANCHERY POLICE STATION,
THRISSUR DISTRICT,PIN- 680 582**

BY SR GOVERNMENT PLEADER SMT.M.J.RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-12-2013,ALONG WITH WP(C)NO.5689 OF 2013 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

WP(C)NO.5340/2013

APPENDIX

PETITIONER(S) EXHIBITS

**EXT.P1 TRUE COPY OF THE MAHAZAR DATED 22-02-2013 PREPARED BY THE
RESPONDENT.**

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) Nos. 5340, 5689, 5708, 5713, 5889,6094,  
6106, 6119, 6160, 6062 and 6188 of 2013

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Dated, this the 20th day of December, 2013

JUDGMENT

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 all 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, dismissal of the 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 the Mines and Minerals (Development and Regulation) Act, 1957 and the Kerala Minor Mineral Concession Rules, 1967.

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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/-**. 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/-**, also directing the concerned respondent to consider the application for compounding, if any.

4. If the petitioners are desirous to have the offence, if any, to be compounded, it is for them to approach the concerned respondent/authorised officer by filing necessary application in this regard and once the offence is compounded, no further prosecution proceedings shall lie against them.

**P. R. RAMACHANDRA MENON,
(JUDGE)**

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