

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. 20594 of 2013 (Y)

PETITIONER(S):

1. **MUKESH,
S/O. BABU, RAKESH BHAVANAM, KARIMULACKAL, KOMALLOOR P.O
MAVELIKKARA.**
2. **SANTHOSH,
S/O. DAMODHARAN, CHIRAYARUKIL VEEDU,
NEAR KOTTARATHIL MUKKU, PALLICKAL P.O, KATTANAM,
MAVELIKKARA.**

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

RESPONDENT(S):

1. **THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVT, SECRETARIAT,
THIRUVANANTHAPURAM 695001.**
2. **DISTRICT COLLECTOR,
PATHANAMTHITTA 689545.**
3. **THE DISTRICT POLICE CHIEF,
PATHANAMTHITTA 689545.**
4. **THE SUB INSPECTOR OF POLICE,
ENATHU 689511.**
5. **DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM 695001**

BY SENIOR GOVERNMENT PLEADER SMT.M.J.RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-12-2013,
ALONG WITH WPC.NO.20995/2013 AND CONNECTED CASES, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

WP(C).No. 20594 of 2013 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 TRUE COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE
NO KL 26 B 2462**

**EXHIBIT P2 TRUE COPY OF THE FIR PREPARED BY THE SUB INSPECTOR OF POLICE,
ENATHU**

**EXHIBIT P3 TRUE COPY OF THE NOTIFICATION NO 20553/K2/ID DATED 22-12-1988
(SRO 139/89 DATED 24-01-1989)**

**EXHIBIT P4 TRUE COPY OF THE NOTIFICATION ISSUED UNDER SRO 827/91
PUBLISHED ON 26-06-1991**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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W.P.(C). Nos.20594, 20595, 20640, 20797,
20830, 20834, 21199, 21200 & 21344 of 2013

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 all these 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 ₹ **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 ₹ **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 compounded, conceding the guilt, 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.**

kp/-