

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. 32084 of 2013 (I)

PETITIONER:

**SATHEESH P.D,
S/O. DIVAKARAN,
AGED 40 YEARS,
PANACHIKUNNEL HOUSE,
ADIMALY, IDUKKI DISTRICT,
(OWNER OF A MINI LORRY BEARING REGISTRATION
NO.KL-6E/7987).**

BY ADV. SRI.BABU S. NAIR.

RESPONDENTS:

- 1. THE DISTRICT COLLECTOR,
IDUKKI, PIN - 685 603.**
- 2. THE REVENUE DIVISIONAL OFFICER,
DEVIKULAM, IDUKKI DISTRICT,
PIN - 685 613.**
- 3. THE SUB INSPECTOR OF POLICE,
ADIMALY POLICE STATION,
IDUKKI DISTRICT, PIN - 685 561.**

BY GOVERNMENT PLEADER SMT. LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-12-2013, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Prv.

W.P.(C).NO.32084/2013-I:

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P.1 COPY OF THE SEIZURE MAHAZAR PREPARED BY THE R.3.
 DTD. 15/12/2013.**

**EXT.P.2 COPY OF THE ORDER ISSUED BY THE GEOLOGIST, DEPARTMENT OF
 MINING AND GEOLOGY, IDUKKI DATED, 22/11/2013.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.A. TO JUDGE.

Prv.

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 32084 of 2013

Dated this the 20th day of December, 2013

JUDGMENT

The petitioner has approached this Court with the following prayers:

“i. Issue a writ of mandamus or any other appropriate writs, orders of directions commanding the respondents to release the vehicle bearing registration No. KL-6E/7987 to the petitioner forthwith.

ii. Declare that the seizure of the vehicle of the petitioner by the third respondent is illegal as he is not an authorized officer under the provisions of the MMDR Act and KMMC Rules, 1967.”

2. 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 petitioner. In the said circumstance, interference is declined and the writ petition is dismissed accordingly.

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

4. 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 was in the said circumstance, that this Court was passing various 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.

5. If the petitioner is desirous to have the offence compounded, conceding the guilt, it is for him 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 him.

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