

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

Crl.MC.No. 2285 of 2015

**CRMP 1083/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
SULTHANBATHERY**

PETITIONER:

**ABDU RAHIMAN, AGED 56 YEARS,
S/O.IMBICHIMAYIN, KOLATHIL HOUSE, VELIMANNA,
RAROTH, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.MOHAN JACOB GEORGE
SMT.P.V.PARVATHI
SMT.REENA THOMAS**

RESPONDENT:

**1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
REPRESENTING THE
ASSISTANT WILD LIFE WARDEN,
MUTHANGA RANGE 673 592.**

**2. ASSISTANT WILD LIFE WARDEN,
MUTHANGA RANGE 673 552**

BY SPECIAL PUBLIC PROSECUTOR SRI.M.P.MADHAVANKUTTY

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 08-06-2015, ALONG WITH WPC. 12765/2015, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE A1 COPY OF THE ORDER DATED 26-08-2014 IN CRL MC NO
3694/2014**

**ANNEXURE A1(A) COPY OF CRL M.P NO.5778/2013 FILED UNDER SECTION 457 OF
CR.PC**

**ANNEXURE A2 COPY OF THE AFFIDVIT FILED BY THE PETITIONER DATED 16-01-2014
BEFORE JFCM, SULTHAN BATHERY**

**ANNEXURE A3 COPY OF THE PETITION SUBMITTED BY THE PETITIONER SEEKING
INTIATION OF ACTION AGAINST THE FOREST RANGE
OFFICER,MUTHANGA**

**ANNEXURE A4 COPY OF C.M.P 289/A/2014 IN CMP 5778/2013 FILED BY THE
ASSISTANT WILD LIFE WARDEN**

**ANNEXURE A5 COPY OF THE ORDER DATED 20-01-2014 OF OF THE JFCM,SULTHAN
BATHERY**

**ANNEXURE A6 COPY OF THE PETITION FILED BY THE PETITIONER AS CRL.MP NO
1083/2014 BEFORE JFCM,SULTHAN BATHERY**

**ANNEXURE A7 COPY OF THE PETITION DATED 18-03-2014 FILED BY THE ASSISTANT
WILD LIFE WARDEN**

**ANNEXURE A8 COPY OF ORDER DATED 20-03-2014 CLOSING C.M.P 1083/2014 FILED
IN CMP 5778/2013**

**ANNEXURE A9 COPY OF THE COMMUNICATION DATED 14-11-2014 OF THE
ASSISTANT WILD LIFE WARDEN**

**ANNEXURE A9(A) COPY OF THE CERTIFICATE ISSUED BY THE ASSISTANT
EXECUTIVE ENGINEER,PWD MECHANICAL SUB DIVISION,KANNUIR-2**

**ANNEXURE A10 COPY OF THE CERTIFICATE OF INSURANCE OF THE PETITIONER'S
VEHICLE FOR THE PERIOD 8-2-2011 TO 7-2-2012 OF THE UNITED INDIA
INSURANCE COMPANY LTD**

**ANNEXURE A11 COPY OF THE REPRESENTATION DATED 14-10-2014 SUBMITTED BY
THE PETITIONER**

RESPONDENT(S)' ANNEXURE

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

Crl.M.C.No.2285/2015 & W.P(C).No.12765/2015

Dated this the 8th day of June, 2015.

ORDER

The prayers in the Crl.M.C are as follows:

“A. To call for the records leading Annexure A9 & A9(a) and set aside the same.

B. To direct the Respondent to release the vehicle as per Annexure A5 order or direct the Respondent to consider Annexure A10 & A11 and make fresh valuation in accordance with same and directing the Respondents to pass orders on same within a time limit prescribed by this Hon'ble Court for releasing the vehicle.”

2. The prayers in the Writ Petition are as follows:

“A. To call for the records leading to Exts.P-9 & P-9(a) and issue a writ of Certiorari or other appropriate writ or order quashing Exts.P-9 & P-9(a).

B. To issue a writ of Mandamus or other appropriate writ or order directing the Respondent No.3 to release the Petitioner's vehicle Tata HJV – Goods Carriage lorry bearing registration No.KL 11 N-1300 after considering Exts.P-10 & P-11 and make fresh valuation in accordance with same and directing the Respondents to pass orders on same within a time limit prescribed by this Hon'ble Court for releasing the vehicle.”

3. The dispute between the parties is in a very narrow compass as to the value of the vehicle which is the subject matter of the request

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for interim release of vehicle. The order that now governs the field is Annexure-A1 order (produced in Crl.M.C.No.2285/2015). As per Annexure-A1 order (see internal page 7 thereof) this Court directed the Assistant Wild Life Warden to get the valuation of the vehicle assessed either by the Motor Vehicle Inspector of the area concerned or by a Mechanical Engineer of Public Works Department. Pursuant to this direction the valuation was got done by the Mechanical Engineer of the Public Works Department as per Annexure-A9(a) order whereby the valuation is shown as Rs.3.9 Lakhs. The learned counsel for the petitioner vehemently asserts that the value of the vehicle is not more Rs.2 Lakhs as evident from the earlier proceedings of the learned Magistrate concerned and as well as from Annexure-A10 Insurance Valuation Certificate by the United India Insurance Company for the very same vehicle in question, showing value of only Rs.2 Lakhs on 8.2.2011. Since the dispute between the parties is regarding the impugned valuation done by the Mechanical Engineer of the Public Works Department, the only recourse is to direct that the Assistant Wild Life Warden shall get valuation of the vehicle done by the Motor Vehicle Inspector concerned of the area. This shall be done within a

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period of two weeks from the date of production of a certified copy of this order. Based on such valuation, it is for the petitioner to proceed with the matter. All the other conditions stipulated in Annexure-A1 order passed by this Court which regulates the issue of interim release of the vehicle to the petitioner will stand unaltered.

With these observations and directions, both the Crl.M.C and the Writ Petition stand finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-