

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937**

**WP(C).No. 501 of 2010 (K)**  
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**PETITIONER :**  
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**V.V. PRADEESH KUMAR, S/O. RAMACHANDRAN,  
AGED 27 YEARS, VELUR VADAKKUMURI HOUSE,  
IRINGOTTUR DESOM, THIRUMUTTAKKODE P.O.  
KOOTTANADU VIA, PALAKKAD DISTRICT.**

**BY ADV. SRI.SHOBY K.FRANCIS**

**RESPONDENTS :**  
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- 1. DISTRICT COLLECTOR  
COLLECTORATE, THRISSUR.**
- 2. SUB-INSPECTOR OF POLICE  
CHERUTHURUTHY POLICE STATION,  
CHERUTHURUTHY, THRISSUR DISTRICT.**

**R1 & R2 BY GOVERNMENT PLEADER MANOJ P. KUNJACHAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**bp**

WP(C).No. 501 of 2010 (K)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE JUDGMENT IN WPC NO. 16892/2009 DT 17-9-09 PASSED BY THIS HONOURABLE COURT.
- P2: COPY OF ORDER IN B7-29421/09 DT 30-07-2009 PASSED BY THE R1.
- P3: COPY OF THE RELEASING ORDER ISSUED BY THE DISTRICT COLLECTOR DT 18/8/2009
- P4: COPY OF THE FINAL ORDER PASSED BY THE DT. COLLECTOR IN B7 -29421/09 DT 12-10-2009.
- P5: COPY OF THE REQUEST DT 10/9/2009 SUBMITTED BY THE PETITIONER.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDG

bp

**K. VINOD CHANDRAN, J.**

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**W.P.(C) No.501 of 2010-K**  
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**Dated this the 15<sup>th</sup> day of July, 2015.**

**JUDGMENT**

The petitioner is aggrieved with Ext.P4 order of the District Collector, Thrissur. The essential contention raised by the petitioner to challenge the order is that the petitioner had not been issued with a copy of the Seizure Mahazar and that the vehicle seized was empty and there was no sand in the vehicle. The petitioner also contends that, there is a specific direction in Ext.P3 when the vehicle was released on interim custody, to verify the records and take photographs of the vehicle with sand, if any, in the presence of the witnesses and the sample should be drawn and sent for testing the type of sand to the Geologist. The petitioner submits that no such procedure has been complied with.

2. The learned Government Pleader submits that at no point of time, the petitioner had raised a contention before this Court, in the earlier round of litigation nor before the authorities

that the Seizure Mahazar was not issued. As to the compliance of Ext.P3 order, the learned Government Pleader would submit that it was incumbent upon the petitioner to have obtained the said photographs and produced it along with the writ petition.

3. The petitioner, on the basis of Ext.P5, would contend that the petitioner had raised a contention as early as on the date of filing that there was no sand available in the vehicle. However, even in Ext.P5, there is no averment that Seizure Mahazar was not issued. This Court in the teeth of the controversy had directed production of the files, pertaining to the above matter. The file revealed an application made on 08.07.2009, pursuant to the judgment at Ext.P1, seeking interim custody of the vehicle. The same also does not contain a specific averment that the Seizure Mahazar was not served on the petitioner. A reading of Ext.P1 judgment indicates that nowhere was such a contention noticed by this Court and the same was never argued or considered, when a detailed judgment was passed.

4. Ext.P1, in fact dealt with arguments of the petitioner as also the various judgments on the subject and without

considering the petitioner's contentions on merits, directed the District Collector to consider whether the vehicle has to be released on interim custody or not. It was also directed that, the District Collector would be entitled to consider whether there was actually any contravention of a provision of law. If the petitioner had a contention that the Seizure Mahazar was not given to him, then the petitioner ought to have raised it before this Court at the earlier round of litigation nor was it raised before the authorities, when the matter was prosecuted before the authorities.

5. The Seizure Mahazar is found in page 73 of the files produced by the learned Government Pleader. The said Mahazar very clearly indicates that the petitioner's vehicle was found with loaded river sand near a kadavu. In such circumstance, the petitioner's contention that there was no sand available in the vehicle, cannot be countenanced.

6. The next contention is with respect to Ext.P3 not having been complied with. This Court is not able to countenance the argument of the learned Government Pleader that the same has

been produced by the petitioner. The 2<sup>nd</sup> respondent is the Officer, who has been directed by Ext.P3. But, since the Seizure Mahazar clearly indicates that the vehicle contained sand, there is no question of any non-compliance of Ext.P3 standing against the Government.

The writ petition hence would stand dismissed.

Sd/-

**K. VINOD CHANDRAN,  
JUDGE**

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