

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

W.P.(C).No.1741 of 2010 (P)

PETITIONER(S):-

SEBEEL.K.V., S/O.MUHAMMED KUTTY,
KUNNATHUVALAPPIL VEEDU, IRUMBAKASSERRY,
THIRUMITTAKKODE, PALAKKAD DISTRICT.

BY ADV. SRI.SUNIL JACOB JOSE.

RESPONDENT(S):-

THE DISTRICT COLLECTOR,
COLLECTORATE, THRISSUR.

BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.1741 OF 2010-P

APPENDIX

PETITIONERS' EXHIBITS:-

EXT.P1 PHOTOCOPY OF THE ORDER NO.B7.29420/09 DATED
 03.11.2009 OF THE RESPONDENT.

EXT.P2 PHOTOGRAPHS OF THE VEHICLE LYING IN POLICE CUSTODY.

RESPONDENT'S EXHIBITS:-

NIL.

vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.1741 of 2010-P

Dated this the 21st day of July, 2015

JUDGMENT

The petitioner is aggrieved with Exhibit P1, which is an order passed under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. Mulcted with a fine of Rs.85,000/-, the petitioner had obtained an interim order for release, on deposit of Rs.42,500/- and on execution of a bond to the satisfaction of the 1st respondent, for the balance amount.

2. The petitioner contended that when the seizure was made the vehicle did not carry sand. A reading of Exhibit P1 would reveal that the seizure was made at a time loading of river sand was being carried out from the river. It is also evident that the petitioner conceded before the respondent-District Collector to the imposition of nominal fine for release of the vehicle. Before taking the decision at Exhibit P1, the respondent has not considered the report of the officer who seized vehicle or the seizure mahazar. In the teeth of the specific contention that the vehicle was seized on the allegation that it was loading sand, the

District Collector ought to have looked at the mahazar, to verify whether the vehicle contained any sand at the time of seizure. Hence, Exhibit P1 shall stand modified, reducing the penalty to Rs.42,500/- [Rupees forty two thousand and five hundred only]. Needless to say, if the interim order has not been complied with, the respondent would be entitled to recover the amount by sale of the vehicle bearing registration No.KL-09-B-2008, as indicated in the said order itself.

Writ petition is disposed of. No costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]