

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WA.No. 905 of 2015 IN WP(C).10752/2015

AGAINST THE JUDGMENT IN WP(C) 10752/2015 DATED 01-04-2015

APPELLANT/PETITIONER :

M.ASHIM AGED 40 YEARS
S/O. AMMOOTTY, NO.13/8 2ND MAIN 5TH CROSS
KPN EXTN. BANGALORE 560 002

BY ADVS.SRI.A.K.ABDUL AZEEZ
SRI.T.K.SASINDRAN

RESPONDENTS/RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695001
2. THE REVENUE DIVISIONAL OFFICER, KANHANAGAD,
KASARAGOD DISTRICT-671 315
3. STATION HOUSE OFFICER
MANJESHWAR POLICE STATION, KASARGOD 671 315

BY SR.GOVERNMENT PLEADER, SRI.P.I. DAVIS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 905 OF 2015

Dated this the 21st day of May, 2015

JUDGMENT

Shaffique, J.

Petitioner in the writ petition is the appellant who challenges the judgment dated 01.04.2015 passed in W.P.(C) No. 10752 of 2015.

2. The facts involved in the writ petition will disclose that the vehicle bearing No.KA-01-AA 4816 was seized by the 3rd respondent on 11.03.2015 while transporting river sand. According to the petitioner, the sand was not river sand, but was brought from another State.

3. Learned Single Judge after taking into consideration the claim put forward by the petitioner relied upon the judgment of this Court in **Faisal v. Assistant Sub Collector** [2015 (1) KLT 949] the Full Bench judgment in **Shan C.T. v. State of Kerala** [2010 (3) KLT 413] and directed the petitioner to approach the competent authority.

4. Learned counsel for the appellant submits that if appellant approaches the competent authority, harsh

conditions will be imposed on him. That by itself is not a reason for the petitioner not approaching the competent authority as held by this Court in the judgment aforesaid. The learned Single Judge has referred to Section 23A of the Kerala Protection of River Banks & Regulation of Removal of Sand Act, 2001 which clearly indicates that the power is vested upon the Judicial Magistrate having jurisdiction of the area to deal with the interim custody of the vehicle.

Under such circumstances we do not find any error in the judgment of the learned Single Judge and accordingly, this Writ Appeal is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**

WA No. 905 of 2015

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