

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 2437 of 2012 (D)

PETITIONER(S):

**KUNHIRAYIN, AGED 52 YEARS,
S/O.KOYAKUTTY, ANORA HOUSE, POOVATTUPARAMBU,
KOZHIKODE DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, KOZHIKKODE, PIN - 673 301.**
- 2. THE TAHSILDAR,
TALUK OFFICE, KOZHIKKODE PIN - 673 301.**
- 3. THE JUNIOR SUPERINTENDENT,
TALUK OFFICE, KOZHIKKODE, PIN - 673 301.**

BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 2437 of 2012 (D)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE THIRD
RESPONDENT DATED 12.1.2012.**

**EXT.P2: TRUE COPY OF THE INTERIM ORDER DTD.3.4.2009 IN WP(C) NO.11206/2009
OF THIS HON'BLE COURT.**

**EXT.P3: TRUE COPY OF THE INTERIM ORDER DTD.7.12.2011 IN WP(C) NO.31828/2011
OF THIS HON'BLE COURT.**

**EXT.P4: TRUE COPY OF THE INTRIM ORDER DTD.11.3.2011 IN WP(C) NO.7689/2011 OF
THIS HON'BLE COURT.**

**EXT.P5: TRUE COPY OF THE INTERIM ORDER DTD.12.1.2012 IN WP(C) NO. 446/2012
OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.2437 of 2012

Dated this the 27th day of February, 2015

JUDGMENT

The vehicle bearing No. KL-02M/8490 was seized by the 3rd respondent alleging offence under the MMDR Act/KMMC Rules. The main ground of challenge is that, the respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala** [2014(1) KLT 536]. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment

rendered by a Division Bench of this Court in **Construction Materials Movers Association V. State of Kerala** [2008 (4) KLT 909]. In the said circumstance, there is no tenable ground to call for interference.

4. When the matter came up for consideration on **31.01.2012**, the vehicle was caused to be released, **on execution of a simple bond**. In the said circumstance, the further course of action required is to surrender the vehicle before the concerned respondent, so as to enable the concerned respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioner expresses desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioner to have it compounded on satisfying the compounding fee of ₹ 25,000/- within **two weeks** from the date of receipt of a copy of this judgment. Once the offence is compounded, no prosecution proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police** [2013(1) KLT 600]. It shall

be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in compounding the offence, the respondent shall pursue further steps to **seize the vehicle** and proceed with steps for prosecution.

The writ petition is disposed of.

Sd/-

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

sp