

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C) .No. 3840 of 2012 (D)

-----

PETITIONER(S) :

-----

PRATHEESHKUMAR V.V. ,  
AGED 29 YEARS ,  
S/O. RAMACHANDRAN NAMBIAR, AGED 29 YRS. ,  
VELUR VDUKKUMURY HOUSE ,  
THIRUMUTTAKODE P.O. ,  
PALAKKAD DISTIRCT (REGISTERED OWNER OF KL-08/E-6174) .

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S) :

-----

1. THE SUB-DIVISIONAL MAGISTRATE/  
REVENUE DIVISIONAL OFFICER,  
THRISSUR - 680 003.
2. SUB- INSPECTOR OF POLICE ,  
CHERUTHURUTHY POLCIE STTION ,  
CHERUTHURUTHY P.O. ,  
THRISSUR DISTRICT - 679 531.

BY GOVERNMENT PLEADER SMT. SUNITHA VINOD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

-----

EXT. P1:- A TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT IN  
B3-16858/11 DATED 03/02/2012.

EXT. P2:- A TRUE COPY OF THE RELEASING ORDER DATED 03/03/2012  
ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.

EXT. P3:- A TRUE COPY OF THE ENDORCEMENT MADE BY THE TAHSILDAR ON  
THE BACK SIDE OF THE RELEASING ORDER.

EXT. P4:- A TRUE COPY OF THE PHOTOGRAPHS SHOWING THE PRESENT  
CONDITION OF THE VEHICLE KL-08/E-6174.

EXT. P5:- A TRUE COPY OF THE PHOTOGRAPHS SHOWING THE PRESENT  
CONDITION OF THE VEHICLE KL-08/E-6174 ON THE DATE OF  
THE SEIZURE.

RESPONDENT(S) ' EXHIBITS :

-----

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS. -

**A.V. RAMAKRISHNA PILLAI, J.**

-----  
**W.P.(C) No. 3840 of 2012**  
-----

**Dated this the 22<sup>nd</sup> day of January, 2015**

**J U D G M E N T**

Ext.P1 order, by which the petitioner was directed to remit an amount of ₹35,000/- towards value of the vehicle and to remit an amount of ₹25,000/- towards fine under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001, is under challenge.

2. The 2<sup>nd</sup> respondent seized the goods vehicle of the petitioner on 28.09.2011 on the allegation that the vehicle was involved in unauthorized transportation of river sand. Confiscation proceedings were initiated and Ext.P1 final order was passed resulting in the aforesaid direction. In this writ petition, the petitioner is challenging the order to pay fine as it is without jurisdiction. It is also averred that the petitioner is ready to remit the value of the vehicle towards the river management fund.

3. Arguments have been heard.

4. This Court, by interim order dated 15.02.2012, directed the release of the vehicle on payment of the value

..2..

of the vehicle as well as fine made mention of in Ext.P1 subject to final orders of this Court.

5. The learned counsel for the petitioner submitted that the said order has been complied with and the vehicle has been released to the petitioner.

6. The only challenge against Ext.P1 is regarding the imposition of fine of ₹25,000/-. As rightly pointed out by the learned counsel for the petitioner, the Revenue Divisional Officer is incompetent to impose fine under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. This position has been reiterated by this Court in a series of decision.

Therefore, the writ petition is allowed.

Ext.P1 order so far as it imposes a fine of ₹25,000/- to the petitioner is hereby quashed. The respondent concerned is directed to pay back the sum of ₹25,000/- to the petitioner within a period of one month from the date of receipt of a copy of this judgment.

Sd/-  
**A.V. RAMAKRISHNA PILLAI,**  
**JUDGE**

bka/-