

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 2802 of 2013 (A)

PETITIONER(S):

**JAMES ABRAHAM,
AZHAKANAKUZHAYIL HOUSE, THADIYOOR.P.O
PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S):

- 1. THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVT. SECRETARIAT
THIRUVANANTHAPURAM. 695 001.**
- 2. DISTRICT COLLECTOR
PATHANAMTHITTA-689 645.**
- 3. DISTRICT POLICE CHIEF
PATHANAMTHITTA-689 645.**
- 4. THE SUB-INSPECTOR OF POLICE
KOIPPURAM-689674.**
- 5. DIRECTOR OF MINING AND GEOLOGY
DEPARTMENT OF MINING AND GEOLOGY
THIRUVANANTHAPURAM. 695 001.**

BY GOVERNMENT PLEADER SRI.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S) EXHIBITS

- P1- TRUE COPY OF THE REGISTRATION CERTIFICATES OF THE VEHICLE BEARING REG. NO.KL-3-T-5189.**
- P2- TRUE COPY OF THE FIR IN CRIME NO.118/2013 PREPARED BY THE SUB INSPECTOR OF POLICE, KOIPPURAM.**
- P3- TRUE COPY OF THE NOTIFICATION NO.20553/K2/88/ID DATED 22.12.1988 (SRO 139/88 DATED 24.1.1989)**
- P4- TRUE COPY OF THE NOTIFICATION ISSUED UNDER SRO 827/91 PUBLISHED ON 26.06.1991.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 2802 of 2013

Dated this the 25th day of February, 2015

J U D G M E N T

The vehicle bearing No.KL-3-T-5189 was seized by the fourth respondent alleging offence under the Mines and Mineral (Development and Regulation) Act and the Kerala Minor Mineral Concession 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 30.01.2013, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/- with 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 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 the offence compounded on satisfying the compounding fee of Rs.25,000/-. The amount ordered to be paid as per the interim order dated 30.01.2013 shall be treated as compounding fee and offence shall be treated as compounded. 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 satisfying the compounding fee, the concerned respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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