

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C).No. 228 of 2015 (C)

PETITIONER(S):

**JAYAPRAKASAN AGED 50 YEARS
S/O.GOPALAN NAIR, PUTHIYOTTIL HOUSE, PARAMBIL P.O.
KURUVATTOOR, KOZHIKODE DISTRICT.**

BY ADV. SRI.SUNNY MATHEW

RESPONDENT(S):

- 1. THE VILLAGE OFFICER
OFFICE OF THE VIGILANCE OFFICER, KURUVATTOOR
KOZHIKODE DISTRICT - 673001**
- 2. THE SUB COLLECTOR KOZHIKODE
OFFICE OF THE SUB COLLECTOR, COLLECTORATE, KOZHIKODE - 673001**
- 3. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
SECRETARIAT, TRIVANDRUM - 695001**

BY ADV. V.K.RAFEEQ, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 228 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 - COPY OF THE AGREEMENT FOR SALE ENTERED INTO BETWEEN
SRI.MOHAMMED FAISAL, THE PREVIOUS OWNER OF THE VEHICLE AND THE
PETITIONER.**

P2 - COPY OF THE APPLICATION IN FORM 29.

P3 - COPY OF THE APPLICATION IN FORM 30.

RESPONDENT(S)' EXHIBITS: N I L

//TRUE COPY//

PA TO JUDGE

JV

ANIL K. NARENDRA, J.

W.P.(C) No.228 of 2015

Dated this the 9th day of September, 2015

JUDGMENT

The petitioner who is stated to be the owner in possession of a 2009 model light goods vehicle having registration No.KL-11-AC-8104, covered by Ext.P1 agreement, has filed this writ petition seeking a writ of mandamus commanding the 2nd respondent to release the aforesaid vehicle which was seized by the 1st respondent on 1.12.2014 alleging illegal transportation of ordinary earth in violation of the provisions under the Mines and Minerals (Development & Regulation) Act, 1957.

2. On 15.01.2015, while admitting the writ petition, this Court passed the following order:

“Government Pleader, on instructions submits that the vehicle was empty when the same was seized and seizure was made on the basis of the complaint. In the said circumstances, there will be a direction to the respondents to release the vehicle on executing a simple bond and also giving an undertaking to the effect that the vehicle will not be transferred during the pendency of the proceedings and that no action will be taken so as to diminish the value of the vehicle.”

3. In the statement filed by the 1st respondent it is stated that the seizure of the vehicle has already been reported to the

Revenue Divisional Officer and the matter is pending consideration before that authority. Though no offence under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 has been made out, the petitioner is liable to be proceeded against under the provisions of the Kerala Minor Mineral Concession Rules.

4. I heard the arguments of the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

5. The petitioner would contend that the seizure of the vehicle in question is per se arbitrary and illegal. Merely because some red earth was seen unloaded near the place where the petitioner's vehicle was found, the 1st respondent seized the vehicle.

6. The learned Government Pleader would point out that, in exercise of the powers conferred under Rule 22 of the Mines and Minerals (Development & Regulation) Act, 1957, the Government vide GO(P) No.77/2015/ID dated 05.06.2015 has already notified the Senior Geologist/Geologist/Assistant Geologist of the Kerala Mineral Squad (Northern Region) as the designated officer who is authorised to prefer complaints in

writing in Courts in respect of any offence punishable under the Act and the Rules made thereunder, in respect of the Revenue Districts of Kasaragod, Kannur, Wayanad, Kozhikode and Malappuram.

In such circumstances, this writ petition is disposed of directing the petitioner to produce the registration certificate of the vehicle seized before the senior Geologist concerned, who is the competent authority to file complaint before the jurisdictional Magistrate Court as notified by Government Order dated 05.06.2015, within a period of one month from the date of receipt of a certified copy of the judgment, so as to enable the said authority to proceed with the matter in accordance with law. The interim order granted by this Court releasing the vehicle in question to the petitioner will be subject to the outcome of the proceedings to be initiated against the petitioner.

sd/-
ANIL K. NARENDRAN,
JUDGE

JV