

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 242 of 2015 (E)

PETITIONER :

**N.P.KASIM, AGED 41 YEARS,
S/O.T.MOHAMMED, PUNJAVI, P.O OZHINJA VALAPU,
NEELESWARAM(VIA), KANHANGAD, KASARAGOD DISTRICT.**

**BY ADVS.SRI.V.V.NANDAGOPAL NAMBIAR
SMT.PREEJA. P.VIJAYAN**

RESPONDENT(S):

- 1. THE DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY, KESAVADASAPURAM,
PATTOM P.O, THIRUVANANTHAPURAM, PIN -695 001**
- 2. THE GEOLOGIST, O/O GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
KASARAGODE, PIN -671 121**
- 3. THE SUB INSPECTOR OF POLICE,
HOSDURG POLICE STATION,
KANJANGAD, KASARGODE DISTRICT,PIN-671 121**
- 4. DISTRICT COLLECTOR,
COLLECTORATE, KASARGODE, PIN- 671 121**
- 5. REVENUE DIVISIONAL OFFICER,
R.D.O OFFICE,KANHANGAD,KASARAGODE DISTRICT.**

R1 TO R5 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 242 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE COPY OF THE REGISTRATION CERTIFICATE OF
VEHICLE BEARING REGISTRATION NO KL-03-N-6462**
- EXHIBIT P2 TRUE COPY OF THE SEIZURE MAHAZAR DTD 02-06-2014 PREPARED
BY THE 3RD RESPONDENT**
- EXHIBIT P3 TRUE COPY OF THE REPRESENTATION DATED 20-12-2014**
- EXHIBIT P4 TRUE COPY OF THE JUDGMENT DATED 26-06-2013 IN WPC 16037/2013**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 242 of 2015

Dated this the 13th day of January, 2015

J U D G M E N T

Petitioner is the owner of MGV-Tipper bearing Reg.No.KL-03-N-6462 and the said vehicle has been detained by the third respondent from 02.06.2014 alleging that the vehicle was used for transportation of river sand in violation of the provisions contained in the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. According to the petitioner, the vehicle was carrying ordinary sand (Poozhi manal) at the time of interception and on his request, the samples were taken for analysis. The result of analysis of sample sand is still to be obtained, despite filing Ext.P3 representation in this regard. The case of the petitioner is that because of the delay from the part of the respondents, the interim custody of the vehicle is still to be obtained.

2. Heard the learned Government Pleader as well

3. A Full Bench of this Court in **Shan C.T. v. State of Kerala [2010 (3) KHC 333 =2010(3)KLT 413]** has laid down

the manner in which the request for interim custody should be dealt with. Therefore, all what is necessary in the Writ Petition is to direct that the statutory authority to deal with the matter in the light of the provisions of the Act referred to above and in the manner as directed by the Full Bench of this Court in the judgment referred to above. Operative portion of the said judgment as contained in paragraphs 12 and 13 reads as follows:

“12. Having regard to the facts and circumstances of the case, we are of the opinion that interim custody of the vehicle can be granted on condition that the owner of the vehicle deposits 30% of the value of the vehicle as determined by the appropriate authority under the Motor Vehicles Act in cash and a further condition that the owner of the vehicle should provide either a bank guarantee or immovable property security for the balance of the value of the vehicle. The amount so deposited and the security furnished would follow the final outcome of the confiscation proceedings.

13. We also deem it appropriate to direct that the proceedings under S.23 of the above mentioned Act confiscating the vehicle shall be concluded within six weeks from the date of seizure of the vehicle as far as possible, in which case the need to consider the interim custody of the vehicle may not normally arise.

But if for any reason the authorities under the Act are not able to conclude the proceedings within the period of six weeks mentioned above, the interim custody of the vehicle shall be given to the owner on the conditions specified earlier. It is also made clear that to avoid any controversy and the allegations of undue delay on the part of either party to the proceedings, the competent authority shall put the owner on notice within a period of three days of the date of seizure and the owner or any other person interested in the vehicle shall file his objections to the confiscation within a week thereafter."

4. Considering the facts and circumstances of the case, the competent authority is directed to consider the request of the petitioner for interim custody, in accordance with the law declared by the Full Bench of this Court in **Shan C.T. vs. State of Kerala and others** (2010 (3) KHC 333) as expeditiously as possible, at any rate, within 'one week' from the date of receipt of a copy of this judgment. The matter shall be finally disposed of within 'six weeks' from the date of receipt of a copy of the judgment. It is also made clear that the proceedings as above shall be finalised also by obtaining the analysis report of the sand taken as per Ext.P3. The petitioner shall produce a copy of this

judgment along with a copy of the writ petition before the concerned respondent for further steps.

The Writ Petition is disposed of.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Pn