

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 313 of 2015 (L)

PETITIONER :

**UMAIBA HAMSA, AGED 43 YEARS,
W/O.HAMSA P.M, POOLAKKAL HOUSE,
VETTIKATTIRI P.O., THRISSUR DISTRICT-679 531,
REPRESENTED BY HER POWER OF ATTORNEY HOLDER HAMSA P.M,
S/O.MOHAMMED, AGED 53 YEARS, POOLAKKAL HOUSE,
VETTIKATTIRI P.O., THRISSUR DISTRICT-679 531,
(REGISTERED OWNER OF KL-07/Q-4888).**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

- 1. THE SUB DIVISIONAL MAGISTRATE/
REVENUE DIVISIONAL OFFICER, OFFICE OF RDO,
COLLECTORATE, THRISSUR-680 003.**
- 2. SUB INSPECTOR OF POLICE,
ERUMAPPETTY POLICE STATION, ERUMAPPETTY P.O,
THRISSUR DISTRICT - 680 572**
- 3. PATTITHARA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
PANCHAYATH OFFICE, PATTITHARA, P.O.THALAKKASSERY,
PALAKKAD DISTRICT -679 532**

R1 & R2 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 313 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE
 KL-07/Q-4888 DATED 3-4-1997**
- EXT.P2 - TRUE COPY OF THE SAND PASS DATED 12-12-14 ISSUED BY THE 3RD
 RESPONDENT**
- EXT.P3 - TRUE COPY OF THE SEIZURE MAHAZAR ISSUED BY THE 2ND
 RESPONDENT TO THE PETITIONER DATED 12-12-14**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 313 of 2015

Dated this the 9th day of January, 2015

J U D G M E N T

The petitioner is the owner of the vehicle bearing registration No.KL-07/Q-4888 which was carrying 'river sand' on the basis of Ext.P2 'Sand Pass' issued by the 3rd respondent. The sand was taken from the starting point in Palakkad and was to be taken to the destination at another place in Palakkad District itself. The case of the petitioner is that, the petitioner was not in a position to travel through the normal route because of heavy traffic jam due to 'road tarring' and that vehicles were being diverted by the Traffic Police at Thrithala Junction. It was in the said circumstances, that the petitioner, despite the involvement of more expenditure and lose of time, sought to adopt an alternate/longer route to reach the destination, travelling through some area of the Trissur District. It was in the course of transportation as above, that the vehicle was intercepted by the 2nd respondent, leading to Ext.P3 seizure mahazar on the same day ie., on 12.12.2014, alleging illegal transportation of river sand. The petitioner contends that, the sand was being

transported strictly in conformity with the relevant provisions of law and that there cannot be any detention.

2. The learned Government Pleader submits on instructions that, no diversion of vehicles was being ordered or effected by the Police as contended by the petitioner, however adding that, road tarring works were going on at the place as pointed out by the petitioner and that there was heavy rush of vehicles. This might have prompted the petitioner to take the alternate route as contended.

3. This Court does not intend to express anything in this regard as it is for the competent authority to adjudicate the issue, if at all such exercise is necessary, to arrive at the true state of affairs. For the time being, this Court finds that, the materials produced and information furnished *prima facie*, stand in support of the petitioner.

4. In the said circumstances, the 2nd respondent is directed to release the vehicle and the goods on execution of a 'simple bond' and report the matter to the 1st respondent for further steps, if necessary. It is for the 1st respondent to take further steps and finalise the proceedings in accordance with the

relevant provisions of law under Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001, if such exercise is necessitated.

The writ petition is disposed of as above. The petitioner shall produce a copy of this judgment along with a copy of this writ petition before the concerned respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Pn