

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 981 of 2015 (W)

PETITIONER(S):

**MOHAMMED ASHRAF, AGED 23 YEARS
S/O.ALI, KALLIKKATTIL HOUSE, KUZHIMANNA P.O.
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.T.K.AJITH KUMAR
SMT.M.A.JINSA MOL**

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE
AREACODE POLICE STATION, AREACODE (PO)
MALAPPURAM DT.673644.**
- 2. KAVANOOR GRAMA PANCHAYATH
KAVANOOR (PO), AREACODE (VIA)
MALAPPURAM DT. PIN 673639,
REPRESENTED BY ITS SECRETARY.**

R1 BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 981 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: A TRUE COPY OF SEIZURE MAHAZAR DATED 26.12.2014.

**EXHIBIT-P2: A TRUE COPY OF SAND PASS NO.47929/2014 DATED 26.12.2014 FOR
THE VEHICLE NO.KL 10 AB 102.**

**EXHIBIT-P3: A TRUE COPY OF THE CERTIFICATE DATED 6.1.2015 ISSUED BY THE
2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 981 of 2015

Dated this the 14th day of January, 2015

JUDGMENT

The petitioner is the owner of the vehicle bearing No. KL-10-AB-102 which was seized on 26.12.14 by the concerned respondent as per Ext.P1 Mahazar alleging illegal transportation of river sand. According to the petitioner, there was no such instance as alleged and that the petitioner was transporting river sand on the strength of Ext.P2 pass issued by the Malappuram District Administration through Kavanur Panchayath on the same date i.e., on 26.12.2014. The factual position is also certified by the 2nd respondent as per Ext.P3 Certificate dated 06.01.2015.

2. Heard the learned Government Pleader as well.

3. After hearing both the sides and after going through the material on record this Court finds that the seizure was effected at 6.30 am whereas the pass was obtained by the petitioner only subsequent to that, i.e., by 7.30 am, though on the same date. The learned counsel for the petitioner however points out that, no such instance had taken place at 6.30 am as stated in Ext.P1

Mahazar and that the correctness of the said Mahazar is sought to be disputed. This however is a matter to be considered by the competent authority in the course of appropriate proceedings.

4. The fact remains that, in view of the law declared by this Court as per the decision reported in **Aboobacker v. State of Kerala** (2014 (3) KLT 26), the 2nd respondent has to report the seizure to the concerned Magistrate's Court having jurisdiction over the area, **forthwith**. It is ordered accordingly. It is open for the petitioner to approach the concerned Magistrate's Court for interim custody of aforesaid vehicle in accordance with law. This will not bar the way of the concerned respondent in proceeding with appropriate steps with regard to the confiscation proceedings in terms of the relevant provisions of law. The writ petition is disposed of.

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

**P.R. RAMACHANDRA MENON,
JUDGE.**