

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. 1120 of 2015 (L)

PETITIONER(S):

**ABDUL RAHMAN, S/O.THIIYAMU,
AGED 34 YEARS, KUNNATHODI HOUSE,
PERUMUDIYOOR P.O, MUTHUTHALA, PATTAMBI TALUK,
PALAKKAD DISTRICT, (OWNER OF LORRY BEARING
REGISTRATION NUMBER KL-08-M-3155).**

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENT(S):

- 1. THE DEPUTY TAHSILDAR (INSPECTION),
TALUK OFFICER, PATTAMBI,
PALAKKAD DISTRICT, PIN- 679 303.**
- 2. THE REVENUE DIVISIONAL OFFICER (R.D.O.),
OTTAPPALAM, PALAKKAD DISTRICT-679 303.**
- 3. THE STATE OF KERALA,
REPRESENTED BY JOINT SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

BY SR. GOVT. 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:**

rs.

WP(C).No. 1120 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT-P1: TRUE COPY OF THE SEIZURE MAHASSAR PREPARED BY
THE FIRST RESPONDENT DATED 09.12.2014.**

**EXHIBIT-P2: TRUE COPY OF THE SAND PASS DATED 09.12.2014 ISSUED BY
THE SECRETARY, MUTHUTHALA GRAMA PANCHAYATH.**

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.1120 OF 2015
.....

Dated this the 13th January, 2015

J U D G M E N T

The petitioner is the owner of the lorry bearing No.KL.8M / 3155 . According to the petitioner, in the course of transportaion of river sand on 09.12.2014, the first respondent/Deputy Tahsildar seized the vehicle alleging diversion of route from the allotted pass. Though the vehicle was produced before the second respondent/RDO, adjudication proceedings are still to be completed. The case of the petitioner is that, by virtue of the law declared by this Court in **Aboobacker vs. State of Kerala (2014 (3) KLT 26)** the seizure of the vehicle has to be reported to the concerned Magistrate's Court, so as to enable the petitioner to seek for interim custody.

2. Heard the learned Government Pleader as well.

3. The offence under the Kerala Protection of River Banks and Regulation of Removal of Sand Act gives rise to two different courses of action; the first one is confiscation proceedings to be pursued by the competent authority, who is none other than the RDO having jurisdiction over the area by virtue of amendment of the relevant provisions of the Statute and the second one is by

way of prosecution proceedings . The necessity to proceed with the prosecution proceedings has been highlighted by a Division Bench of this Court in the decision in **Sujith vs. State of Kerala (2012 (2) KLT 547)**. The duty cast upon the concerned respondent in this regard is now explicitly clear by virtue of the specific provisions of the amended statute.

4. In the said circumstance, there will be a direction to the concerned respondent to report seizure of the vehicle before the concerned Magistrate's Court having jurisdiction over the area in tune with the relevant provisions of the statute, if the same is not effected already. This shall be done at the earliest, at any rate, within two weeks from the date of receipt of a copy of the judgment. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

/k