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. 1366 of 2015 (U)

PETITIONER:

SAMEER M.K. @ SAMEER MOOCHI KOOTTATHIL,
S/O.KUNHIMON, AGED 28 YEARS,
MOOCHIKOOTTATHIL HOUSE, ERAMANGALAM AMSOM,
P.O.ERAMANGALAM, PONNANI TALUK,
MALAPPURAM DISTRICT, NOW WORKING IN
DUBAI UAE.(REGISTERED OWNER
OF THE VEHICLE NO.KL-08/Z-6999).

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

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1. **DISTRICT COLLECTOR,**
   COLLECTORATE, MALAPPURAM-678001.

2. **SUB-INSPECTOR OF POLICE,**
   PERUMPADAPPU POLICE STATION,
   PERUMPADAPPU.P.O, MALAPPURAM DISTRICT.

3. **SUB-DIVISIONAL MAGISTRATE,**
   OFFICE OF THE RDO, THIRUR, P.O THIRUR,
   MALAPPURAM DISTRICT-676101.

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

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

mbr/

WP(C).No. 1366 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1 : TRUE COPY OF THE PRIVATE COMPLAINT FILED BY THE PETITIONER'S FATHER DATED 8-9-2009 IN CC.2/2010.

EXT.P2 : TRUE COPY OF THE REPRESENTATION DATED 24-4-2009 SUBMITTED BY THE PETITIONER TO THE IST RESPONDENT.

EXT.P3 : TRUE COPY OF THE ORDER DATED 6-6-09 PASSED BY THE IST RESPONDENT IN P8-18848/09.

EXT.P4 : TRUE COPY OF JUDGMENT DATED 21-2-2012 PASSED BY THIS HON'BLE COURT IN WP(C)17881/2009.

EXT.P5 : TRUE COPY OF ORDER DATED 24-3-2014 IN CMA.NO. 17/2012 PASSED BY THE DISTRICT COURT, MANJERY.

EXT.P6 : TRUE COPY OF THE JUDGMENT IN WP(C)33996/2014 DATED 16-12-2014.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.1366 of 2015

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Dated this the 14th day of January, 2015

JUDGMENT

The Petitioner is the owner of the vehicle bearing Reg.No. KL 08/Z-6999 which was intercepted for illegal transport of river sand. The proceedings came to be finalised by the 1st respondent as per Ext.P3 order dated 06.06.2009 whereby the vehicle was ordered to be confiscated. However, the petitioner was set at liberty to redeem the vehicle on satisfaction of ₹1.40 lakhs payable to the River Management Fund in terms of Rule 27(3) of the KMMC Rules,1967.

2. The petitioner approached this Court challenging the said order by filing W.P.(C) No.17881/09. When the matter came up for consideration before this Court on 21.02.2012, the memo filed by the petitioner that the writ petition was not pressed was recorded and accordingly the writ petition was dismissed as not pressed. It is said that the petitioner subsequently approached the District Court, Manjeri by way of Civil Miscellaneous Appeal No.17/12. After considering the merits involved interference

was declined and the appeal was dismissed as per Ext.P5 judgment dated 24.03.2014. Nearly 10 months after passing the said judgment the petitioner has now approached this Court by way of present writ petition seeking for a direction to fix the value of the vehicle afresh with the help of Motor Vehicle Inspector in the area and to enable the petitioner to release the vehicle by satisfying such amount. The learned counsel for the petitioner also placed reliance on Ext.P6 judgment dated 16.12.2014 passed by another learned Judge of this Court allegedly under similar circumstances.

3. Heard the learned Government Pleader as well.

4. The sequence of events reveals that the offence was committed by the petitioner more than 5 years ago and no case was raised by the petitioner, at any point of time, when Ext.P3 order was passed by the 1st respondent on 06.06.2009 to cause valuation of the vehicle to be fixed with the assistance of Motor Vehicles Inspector. No such case was raised by the petitioner when he approached this Court by filing W.P.(C) No.17881/09 and the said writ petition was got dismissed as not pressed. If at

all any such grievance was there, it was open for the petitioner to have it raised before the District Court as well, and no such course was pursued till the matter was got dismissed as per Ext.P5 judgment.

5. This being the position it is no more open for the petitioner to take a 'U turn' and invent some fresh grounds to take up the stale issue again. The present petition cannot but be held as an abuse of the process of the Court. Interference is declined.

The writ petition is dismissed.

P.R.RAMACHANDRA MENON,
JUDGE

sj