

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 1486 of 2015 (I)

PETITIONER:

**ANU C. SENAN, S/O.CHANDRASENAN,
ALA P.O., CHENGANNUR, ALAPPUZHA-682025,
REPRESENTED BY POWER OF ATTORNEY
GIREESH V.KRISHNA, AGED 38 YEARS,
S/O.KRISHNA KURUP, VRINDAVAN, PENNUKKARA P.O.,
CHENGANNUR-689520.**

**BY ADVS.SRI.RAAJESH S.SUBRAHMANIAN
SRI.V.R.RAJESH**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, ALAPPUZHA-688101.**
- 2. REVENUE DIVISIONAL OFFICER,
CHENGANNUR, ALAPPUZHA-688101.**
- 3. SUB INSPECTOR OF POLICE,
CHENGANNUR-688101.**
- 4. GEOLOGIST,
MINI CIVIL STATION, ALAPPUZHA-688001.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 1486 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1 : TRUE COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE
BEARING REGISTRATION NO.KL-30-C-3515.**

**EXHIBIT P2 : TRUE COPY OF THE SEIZURE MAHAZAR DATED 12.1.2015 PREPARED
BY THE 3RD RESPONDENT.**

**EXHIBIT P3 : TRUE COPY OF THE ORDER DATED 7.1.2015 BEARING NO.144/2014-
15/MM/OE/DEO/3353/14 DATED 7.1.2015 ISSUED BY THE
4TH RESPONDENT.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 1486 of 2015

Dated this the 12th day of March, 2015

J U D G M E N T

The petitioner is aggrieved of the seizure of the vehicle bearing No.KL-30-C-3515 by the 3rd respondent on 12.01.2015 alleging that the petitioner has committed offence under MMDR Act, 1957/KMMC Rules.

2. When the matter came up for consideration before this Court on 16.01.2015, the interim custody of the vehicle was ordered to be released on furnishing a simple bond and on furnishing an affidavit that the vehicle will not be alienated or will not cause any action so as to diminish the value of the vehicle.

3. The learned counsel for the petitioner submits that the directions have already been complied with.

4. Heard the learned Government Pleader as well, who points out with reference to the contents of Ext.P2 mahazar and the conditions forming part of Ext.P3, offence has been committed by the petitioner in view of violation of the clause (1) and (6). It clearly stipulates the maximum quantity that can be

transported and further that no excavation was liable to be perused in the property on the strength of the permit. Vehicle concerned herein is a JCB, that is an excavator and at the time of interception it was seen deployed at the site which *prima facie* appears to be in contravention of the relevant provisions. In the said circumstances, the matter requires to be proceeded further.

5. After hearing both sides, this Court finds that the matter requires to be pursued further by filing necessary complaint before the Judicial Magistrate having jurisdiction of the area so as to proceed with prosecution proceeding unless the offence is sought to be compounded by the petitioner. The enabling provisions under the statute both under the Act as well as the Rules give a chance to the parties to have the offence compounded. If any such petition is filed the offence shall be compounded **subject to satisfaction of a sum of Rs.25,000/-** as the compounding fee, If the offence is compounded no prosecution proceedings will lie against petitioner in view of the law declared by this Court as per the decision reported in **2013 (1) KLT 600 (Digil v. Sub Inspector of Police)**.

The writ petition is disposed of accordingly. The petitioner

shall produce a copy of this judgment along with a copy of this writ petition before the 3rd respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Pn