

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 4842 of 2013 (E)

PETITIONER(S):

1. PRAMOD, AGED 29 YEARS,
S/O. MOHANAN, PUTHIYEDATH HOUSE, POOPATHY,
THRISSUR DISTRICT.
2. SANOJ,
S/O. SHAJI, MADAPARAMBATH HOUSE, MADATHUMPADI,
POYYA, THRISSUR DISTRICT.
3. PRADEEP,
S/O. GOPALAKRISHNAN, VAKAYIL HOUSE, THIRUMUKKULAM P.O.,
ERNAKULAM DISTRICT.

**BY SRI.RENJITH THAMPAN, SENIOR ADVOCATE
ADV. SMT.P.RREENA**

RESPONDENT(S):

1. DISTRICT COLLECTOR,
COLLECTORATE, THRISSUR-680 003.
2. THE SUB INSPECTOR OF POLICE,
MALA POLICE STATION, MALA P.O., THRISSUR-680 732.

BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

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APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1 TRUE COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE
NO. KL4 T 6977.**

**EXT.P2 TRUE COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE
NO. KL 47 B 8948.**

EXT.P3 TRUE COPY REGISTRATION CERTIFICATE NO. KL 45 F 4798.

**EXT.P4 TRUE COPY OF THE MAHAZAR DATED 16-2-2013 PREPARED BY THE
2ND RESPONDENT.**

**EXT.P5 TRUE COPY OF THE INTERIM ORDER PASSED IN WPC NO. 11206 OF 2009
DATED 3-4-2009.**

**EXT.P6 TRUE COPY OF THE INTERIM ORDER PASSED IN WPC NO. 31828 OF 2011
DATED 7-12-11**

**EXT.P7 TRUE COPY OF THE INTERIM ORDER PASSED IN WPC NO. 15058 OF 2011
DATED 3-6-11.**

**EXT.P8 TRUE COPY OF THE INTERIM ORDER PASSED IN WPC NO. 7689 OF 2011
DATED 11-3-11.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON J.

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Dated, this the 9th day of March, 2015

JUDGMENT

The vehicles bearing No. **KL 4 T 6977, KL 47 B 8948** and **KL 45 F 4798** were seized by the **2nd respondent/S.I. of Police** alleging offence under the Mines and Mineral (Development and Regulation) Act and the Kerala Minor Mineral Concession Rules. The main ground of challenge is that, the 2nd respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 2nd respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala** [2014(1) KLT 536]. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment rendered by a Division Bench of this Court in **Construction Materials Movers Association V. State of Kerala** [2008 (4) KLT 909]. In the said circumstance, there is no tenable

ground to call for interference.

4. When the matter came up for consideration on 19.02.2013, the vehicles were caused to be released, on satisfaction of a sum Rs.25,000/- for each vehicle and on execution of a simple bonds. In the said circumstance, the further course of action required is to surrender the vehicle before the 2nd respondent, so as to enable the 2nd respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioners express desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioners to have the offence compounded on satisfying the compounding fee of Rs.25,000/-. The amount ordered to be paid as per the interim order dated 19.02.2013 shall be treated as compounding fee and offence shall be treated as compounded. Once the offence is compounded, no prosecution proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police** [2013 (1) KLT 600]. It shall be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in

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satisfying the compounding fee, the 2nd respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.

sd/-

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

kmd