

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 5005 of 2013 (A)

PETITIONER :

**BABU P.,
S/O. HASSAN, AGED 30 YEARS
PAIKKATTU HOUSE, KIZHISSERY
KUZHIMANNA P.O.,
MALAPPURAM DISTRICT.
(REGISTERED OWNER OF A MINI LORRY BEARING REGISTRATION
NO. KL-10AB/320)**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR
MALAPPURAM, PIN-676505.**
- 2. THE SUB COLLECTOR
PERINTHALMANNA, MALAPPURAM DISTRICT,
PIN-679322.**
- 3. THE VILLAGE OFFICER
KUZHIMANNA VILLAGE,
MALAPPURAM DISTRICT-673641.**

R1 TO R3 BY GOVT. PLEADER SMT. ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1 TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE
 OF THE PETITIONER.
- EXT.P2 TRUE COPY OF THE INTERIM ORDER DATED 3-4-2009 IN WPC
 NO. 11206/2009 OF THIS HON'BLE COURT.
- EXT.P3 TRUE COPY OF THE INTERIM ORDER DATED 7-12-2011 IN WPC
 NO. 31828/11 OF THIS HON'BLE COURT.
- EXT.P4 TRUE COPY OF THE INTERIM ORDER DATED 3-6-11 IN WPC
 NO. 15058/2011 OF THIS HON'BLE COURT.
- EXT.P5 TRUE COPY OF THE INTERIM ORDER DATED 11-3-11 IN WPC
 NO. 7689/2011 OF THIS HON'BLE COURT.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.5005 OF 2013
.....

Dated this the 25th February, 2015

J U D G M E N T

The vehicle bearing No. **KL.10AB/320** was seized by the **third respondent/Village Officer** 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 third respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 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 **21.02.2013**, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/- and on execution of a simple bond**. In the said circumstance, the further course of action required is to surrender the vehicle before the third respondent/Village Officer, so as to enable the said 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 petitioner expresses 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 petitioner 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 **21.02.2013** 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 satisfying the compounding fee, the concerned 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.

**P.R.RAMACHANDRA MENON
JUDGE**

/k