

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 6099 of 2008 (A)

PETITIONER(S):

A.GANESH, AGED 40 YEARS, S/O.AMBI,
KIZHAKKEVEEDU, AMANCOVIL JUNCTION, NEYYATTINKARA
THIRUVANANTHAPURAM.

BY ADV. SRI.T.RAJASEKHARAN NAIR

RESPONDENT(S):

1. THE STATE OF KERALA, REPRESENTED BY ITS
THE SECRETARY, REVENUE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
COLLECTORATE, THIRUVANANTHAPURAM.

3. THE DEPUTY COLLECTOR, (L.R),
COLLECTORATE, THIRUVANANTHAPURAM.

R, BY ADV. GOVERNMENT PLEADERSHRI.E.M.ABDUL KHADAR

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

APPENDIX IN WPC 6099/2008

PETITIONER'S EXTS:

EXT.P1: THE TRUE PHOTOCOPY OF THE RETAIL INVOICE ISSUED BY THE M/S.
SREE SASTHA ENTERPRISES IN THE NAME OF SRI.SANTHOSH

EXT.P2: -DO- OF THE ENTRY PASS ISSUED BY THE CONCERNED AUTHORITY TO
THE PETITIONER FOR TRANSPORTING THE SAND TO KERALA

EXT.P3: -DO- JUDGMENT IN WPC NO:3112/2008 PASSED BY THIS COURT

EXT.P4: -DO- OF THE WRITTEN SUBMISSION MADE BY THE PETITIONER BEFORE
THE 2ND RESPONDENT

EXT.P5: -DO- OF THE ORDER PASSED BY THE 2ND RESPONDENT

JJ

/TRUE COPY/

P.S.TO JUDGE

K. SURENDRA MOHAN, J.

W.P(C) NO:6099 OF 2008

Dated this the 3rd March, 2015.

JUDGMENT

The only issue that survives in this writ petition is whether the impugned order Exhibit P5 of the District Collector is sustainable or not.

2. The petitioner is the registered owner of a lorry bearing Regn.No.KEV 5972. The vehicle was detained on 5.1.2008, alleging that it was involved in the transportation of river sand from the State of Tamil Nad to Kerala. The vehicle was having a permit, it is stated. As per Exhibit P5, the second respondent has imposed a fine of ₹25,000/- on the petitioner.

3. According to the counsel for the petitioner, the first respondent has no authority to impose the fine. Reliance is placed on the decision of this Court in Sanjayan v. Tahsildar [2007(4) KLT 597] to contend that, the action of the second

respondent is without any authority.

4. Heard the counsel for the petitioner as well as the learned Government Pleader. In view of the dictum laid down by this Court in Sanjayan v. Tahsildar (Supra), it has to be held that, Exhibit P5 to the extent it has imposed a fine on the petitioner is unsustainable. Therefore, the same is set aside to the said extent.

5. It is submitted by the counsel for the petitioner that some amount has been deposited pursuant to Exhibit P5. Needless to observe that the petitioner shall be given credit for the said amount while, finalising further proceedings in the matter.

This writ petition is disposed of accordingly.

Sd/-
K. SURENDRA MOHAN
Judge

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