

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 2659 of 2015 (F)

PETITIONER :

**SMRITHILAL, AGED 23 YEARS, S/O. PURUSHOTHAMAN,
MENOTH HOUSE, VATTAMKULAM P.O.,
MALAPPURAM DISTRICT.**

BY ADV. SRI.MANSOOR.B.H.

RESPONDENT(S):

- 1. STATION HOUSE OFFICER,
CHANGARAMKULAM POLICE STATION,
MALAPPURAM DISTRICT - 676 505.**
- 2. SUB DIVISIONAL MAGISTRATE,
MALAPPURAM - 676 505.**
- 3. DISTRICT COLLECTOR,
CIVIL STATION, MALAPPURAM - 676 505.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 2659 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1- TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE FIRST
RESPONDENT DATED 21/01/2015.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 2659 of 2015

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Dated this the 27th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:-

"1. Issue a writ of mandamus commanding the respondents to release the vehicle bearing registration Nos. KL 10 T 6425 to the petitioner forthwith.

2. To direct the second respondent to finalise the proceedings initiated against the vehicle under Kerala Protection of River Banks and Regulation of Removal of Sand Act 2013.

3. To call for the records leading to Ext.P1 and quash the same by issuing a writ of certiorari.

4. To direct the second respondent to grant interim custody of the vehicle, pending adjudication of proceedings under Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2013."

2. The learned counsel for the petitioner submits that the vehicle bearing No. **KL-10-T 6425** belonging to the petitioner was not used for any illegal transportation of river sand. It is stated that the proceedings have to be finalized by the 2nd respondent. But the request to release the interim custody of the vehicle is still to be acted upon and hence the writ petition.

3. Heard the learned Government Pleader as well.

4. In view of the amended provision of statute and by virtue of the law declared by this Court in **Aboobacker v. State of Kerala** (2014 (3) KLT 26), it is for the 1st respondent to report the seizure to the concerned Magistrate having jurisdiction over the area.

5. In the above circumstance, the writ petition is disposed of, directing the 1st respondent to report the seizure to the concerned Magistrate forthwith at any rate, within 'one week'. It will be open for the petitioner to approach the concerned Magistrate for getting interim custody of the aforesaid vehicle in accordance with law. This will not bar the way of the concerned respondent in proceeding with appropriate steps with regard to the confiscation proceedings in terms of the relevant provisions of law. The writ petition is disposed of.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

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