

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 5466 of 2013 (G)

PETITIONER(S):

**BIJU, S/O.CHAKRAPANI, HOUSE NO.148/366,
KOCHUMADATHIL HOUSE, NADUVATTOM,
PALLIPPADU, KAYAMKULAM,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.ANCHAL C.VIJAYAN.

RESPONDENT(S):

**1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**

**2. THE DISTRICT COLLECTOR,
ALAPPUZHA, PIN-688 001.**

***3. THE TAHAZILDAR, KAYAMKULAM,
ALAPPUZHA DISTRICT, PIN-690 502. (CORRECTED)**

*** ADDRESS OF THE THIRD RESPONDENT IS CORRECTED AS
"TAHSILDAR, MAVELIKKARA, ALAPPUZHA DISTRICT" AS PER
ORDER DATED 05/03/2013 IN I.A.NO.3434/2013.**

BY SR. GOVT. PLEADER SRI.MUHAMMED SHAFI. M.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE CERTIFICATE OF REGISTRATION OF KL-28/4851
TIPPER LORRY.
- EXT.P2 COPY OF THE GOODS CARRIAGE PERMIT NO.P.GD.29/933/2011
DATED 22/08/2011 ISSUED TO KL-28/4851 BY THE R.T.A.,
KAYAMKULAM.
- EXT.P3 COPY OF THE RECEIPT CASH MEMORANDUM DATED 23/02/2013
ISSUED TO THE VEHICLE NO.KL-28/4851 TIPPER LORRY.
- EXT.P4 COPY OF THE MAHAZAR PREPARED BY THE SPECIAL SQUAD
ATTACHED TO THE OFFICE OF THE 3RD RESPONDENT
DATED 23/02/2013.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.5466 of 2013

Dated this the 27th day of February, 2015

JUDGMENT

The vehicle bearing No.KL-28/4851 was seized by the 3rd respondent 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 3rd 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 **27.02.2013**, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/-** and **on executing a simple bond**. In the said circumstance, the further course of action required is to surrender the vehicle before the concerned respondent, so as to enable the 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 27.02.2013 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.

Sd/-
P. R. RAMACHANDRA MENON,
JUDGE

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