

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 2855 of 2015 (F)

PETITIONER(S):

**SREENIVASAN R., AGED 38 YEARS,
S/O. RAMACHANDRAN, SANDYA VILASAM, MARTHANDAMKARA P.O.,
EZHAMKULAM, KULATHUPUZZHA.**

BY ADV. SMT.ANITHA M.N.

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
PATHANAMTHITTA DISTRICT - 689 645.**
- 2. ADDITIONAL TAHASILDAR,
ADOOR TALUK, PATHANAMTHITTA DISTRICT - 691 523.**
- 3. VILLAGE OFFICER,
PERINGANAD, PATHANAMTHITTA DISTRICT - 691 551.**
- 4. THE SUB INSPECTOR OF POLICE,
ADOOR POLICE STATION,
PATHANAMTHITTA DISTRICT - 691 523.**

BY SENIOR GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 2855 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1 - A TRUE COPY OF THE SEIZURE MAHAZAR DT. 05.1.15.

**EXT. P2 - A TRUE COPY OF THE BUILDING PERMIT DT. 29.11.14 ISSUED BY THE
ASST. ENGINEER, ADOOR MUNICIPALITY.**

**EXT. P3 - A TRUE COPY OF THE CERTIFICATE DT. 29.12.14 ISSUED BY THE
3RD RESPONDENT.**

EXT. P4 - A TRUE COPY OF THE GO NO. 12/2014/ENVRN DT. 15.11.14.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms^v/

P.R. RAMACHANDRA MENON J.

~~~~~

W.P.(C) No. 2855 of 2015

~~~~~

Dated, this the 17th day of March, 2015

JUDGMENT

The vehicle bearing No. **KL 25 B 8596** was seized by the **2nd respondent/Addl. Tahasildar** 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 **3.2.2015**, the vehicle was caused to be released, **on execution of a simple bond**. 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 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 it compounded on satisfying the compounding fee of Rs.25,000/- within **two weeks** from the date of receipt of a copy of this judgment. 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 compounding the offence, the

W.P.(C) No. 2855 of 2015

: 3 :

second respondent shall pursue further steps to **seize the vehicle** and proceed with steps for prosecution.

The writ petition is disposed of.

Sd/-

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

kmd