

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 3840 of 2014 (D)

PETITIONER:

**RAMESH P.A., ANGATTUKUDIYIL,
VANNAPURAM, THODUPUZZHA.**

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. DISTRICT COLLECTOR,
CIVIL STATION, IDUKKI -685 602.**
- 3. SUB COLLECTOR,
CIVIL STATION, IDUKKI - 685 602.**
- 4. VILLAGE OFFICER,
THODUPUZZHA - 685 584.**

BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 3840 of 2014 (D)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT-P1- TRUE COPY OF THE RETAIL INVOICE OF JCB JS 81 DATED 23/05/2013.

**EXHIBIT-P2- TRUE COPY OF THE MAHAZAR DATED 04/02/2014 PREPARED BY THE
VILLAGE OFFICER, THODUPUZZHA.**

**EXHIBIT-P3- TRUE COPY OF THE PERMISSION GRANTED BY THE SUB COLLECTOR
DATED 18/01/2014.**

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON J.

W.P.(C) No.3840 of 2014

Dated, this the 10th day of March, 2015

JUDGMENT

The petitioner is the owner of JCB JS 81 excavator, which was seized by the **4th 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 4th 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 **7.2.2014**, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/-**. 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 **7.2.2014** 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 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**

rkc