

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 3656 of 2015 (F)

PETITIONER(S):

**ABDUL NAZAR P.T., AGED 39 YEARS
S/O.MOHAMMED, PALAKKATTUTHODI HOUSE, KULAPPULLY P.O.
OTTAPALAM, PALAKKAD DISTRICT.**

**BY ADVS.SRI.SANTHEEP ANKARATH
SRI.YJAFAR KHAN**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
PALAKKAD- 678 001.**
- 2. SUB DIVISIONAL MAGISTRATE,
OTTAPALAM - 679 0101.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF REGISTRATION CERTIFICATE OF THE PETITIONERS VEHICLE BEARING REG. NO.KL - 07P 5290**
- P2- TRUE COPY OF SEIZURE MAHAZAR DATED 12.6.14 PREPARED BY DEPUTY TAHSILDAR (INSPECTION), OTTAPALAM**
- P3- TRUE COPY OF PETITION DATED 11.7.14 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT**
- P4- TRUE COPY OF THE APPLICATION DATED 16.7.14 SUBMITTED BY SRI.JAYAPRAKASH ON BEHALF OF SRI.SANILKUMAR BEFORE THE RESPONDENT ALONG WITH ANNEXURES THEREIN**
- P5- TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) NO. 21780/14 PASSED BY THIS HON'BLE COURT**
- P6- TRUE COPY OF ORDER NO. J- 4571/2014 DATED 13.10.2014 ISSUED BY THE 2ND RESPONDENT**
- P7- TRUE COPY OF ORDER NO. L.R.G. 3-2014/66401/9 DATED 31.12.2014 ISSUED BY THE 1ST RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 3656 of 2015

Dated this the 5th day of February, 2015

JUDGMENT

The vehicle bearing No. KI-07P-5290 belonging to the petitioner covered by Ext.P1 RC was seized by the Deputy Tahsildar, Ottapalam as per Ext.P2 seizure mahazar alleging illegal transportation of river sand. Since the attempt made by the petitioner to explain the position before the concerned respondent did not turn to be fruitful, he was constrained to approach this Court by filing W.P.(C). No. 21780 of 2014. The said writ petition was disposed of as per ExtP5 judgment whereby the petitioner was directed to approach the 2nd respondent herein to have the interim custody of the vehicle. It was thereafter that the matter came to be finalized as per Ext.P6 order dated 13.10.2014. This was followed by Ext.P7 order dated 31.12.2014 passed by the 1st respondent whereby the proceedings have been concluded to the effect that the petitioner has to satisfy a sum of ₹1,10,000/- towards the Kerala River Management Fund within thirty days to have the vehicle released. This made the petitioner to approach this Court by filing this writ petition.

2. Heard the learned Government Pleader as well.

3. On going through the pleadings and proceedings, it is seen that, though confiscation proceedings were finalized by the 2nd respondent, i.e, the competent authority, the value to be remitted by the petitioner to the River Management Fund, if the vehicle was to be redeemed was left open to be considered by the District Collector. From Ext.P7 proceeding of the District Collector, it is seen that the petitioner had also preferred a revision petition and further that the value of the vehicle was got fixed with the assistance of the Regional Transport Officer. It was accordingly that, the petitioner was directed to satisfy a sum of ₹1.10 lakhs to redeem the vehicle by effecting the same to the Kerala River Management Fund, alerting the petitioner that, in case of the failure in satisfying the same, further proceedings will be pursued.

4. As mentioned above, there is an observation in Ext.P7 by the 1st respondent that, the petitioner had already moved the said respondent by way of revision. If a statutory revision petition has been filed, it is for the 1st respondent to have it considered in accordance with law, discussing the merits involved, which exercise obviously has not been pursued by the

1st respondent while passing Ext.P7. The direction has been given simply referring to Ext.P6 order passed by the 2nd respondent, whereby the vehicle was ordered to be confiscated. No independent decision has been taken by the 1st respondent with proper application of mind. As such, this Court finds that the matter requires to be reconsidered.

5. Accordingly, Ext.P7 is set aside and the 1st respondent is directed to reconsider the revision petition stated as preferred by the petitioner, if the same is a proper revision petition, preferred in accordance with law, after giving an opportunity of hearing to the petitioner at the earliest, at any rate, within 'six weeks' from the date of receipt of a copy of this judgment.

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

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