

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 7419 of 2012 (B)

PETITIONER :

**EBY C. OOMMEN
S/O C.C. OOMMEN
CHALAKKUZHIYIL HOUSE
AZHIYIDATHUCHIRA P.O.,
THIRUVALLA.**

**BY ADVS. SRI. T.P. PRADEEP
SRI. S. SREEDEV**

RESPONDENT(S) :

- 1. THE VILLAGE OFFICER
KALLOOPPARA VILLAGE,
PATHANAMTHITTA DISTRICT – 678 456.**
- 2. THE SUB INSPECTOR OF POLICE,
KEEZHVAYPUR POLICE STATION – 678462.**
- 3. TAHZILDAR,
TALUK OFFICE, MALLAPPALLY – 678 101.**
- 4. THE DISTRICT COLLECTOR,
PATHANAMTHITTA – 678 645.**

R1 TO R4 BY GOVT. PLEADER SMT. ANITHA RAVEENDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE RELEVANT PAGES OF R.C.BOOK.
- EXT.P2 COPY OF THE MAHAZAR DATED 21.3.2012 PREPARED BY THE 1ST RESPONDENT.
- EXT.P3 COPY OF THE NOTIFICATION DATED 22.6.1995.
- EXT.P4 COPY OF THE ORDER OF THIS HON'BLE COURT IN WP(C) NO. 3519/2011 DATED 3.2.2011.

RESPONDENT'S EXHIBITS :

- EXT.R1(a) : COPY OF THE GOVERNMENT ORDER G.O.(MS) NO. 18/2012/ID DATED 15-2-2012.
- EXT.R1(b) COPY OF THE PROCEEDINGS NO. A3-4862/10 DTD. 27.2.2012.

//TRUE COPY//

P.A. TO JUDGE

Mn

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 7419 of 2012

Dated this the 26th day of February, 2015

JUDGMENT

The petitioner is the owner of the vehicle bearing Nos. **KL-27-B-5071**, which was seized by the **1st respondent** on 21.3.2012 alleging violation of the provisions of MMDR Act/KMMC Rules. This made the petitioner to approach this Court challenging the proceedings, mainly contending that the 1st respondent does not have any power jurisdiction or competence to have seized the vehicles in any manner.

2. Heard the learned Government Pleader as well.

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 **23.3.2012**, 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 concerned respondent, so as to enable the said 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 express 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 ₹ 25,000/-. 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 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.

kp/-