

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 4227 of 2015 (C)

PETITIONER(S):

**RAJEEVAN K.,
S/O.KANNAN K., RESIDING AT KUMMAN HOUSE,
KAPPAKADAVU AZHIKKAL P.O., AZHIKKODE,
KANNUR DISTRICT - 670 009.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S):

- 1. STATION HOUSE OFFICER,
VALAPATTANAM POLICE STATION,
KANNUR DISTRICT - 670 010.**
- 2. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF REVENUE DIVISIONAL OFFICE,
THALASSERY - 670 101.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 4227 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1 - THE TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE VEHICLE
KL 13/Z 5847.**

**EXT.P2 - THE TRUE COPY OF THE GOODS CARRIAGE PERMIT ISSUED TO THE
PETITIONER'S VEHICLE.**

**EXT.P3 - THE TRUE COPY OF THE VEHICLE PASS ISSUED TO SMT.RESHMA K.C.,
KAYAKHOOL HOUSE, CHOVA BY THE KANNUR BLOCK AGRICULTURAL
IMPROVEMENT CO-OPERATIVE SOCIETY LTD.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R.RAMACHANDRA MENON, J.

=====

W.P.(C) No.4227 of 2015

=====

Dated this the 10th day of February, 2015

JUDGMENT

The petitioner is the owner of the vehicle bearing No. KL- 13Z-5847. The said vehicle was seized by the first respondent alleging illegal transportation of river sand in violation of the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. The case of the petitioner is that, he was transporting river sand with valid permit issued by the RTA, Kannur.

2. Heard the learned Government Pleader as well.

3. After hearing both the sides, this Court finds that the proceedings shall be finalized after obtaining the analysis report of sand tested in a competent laboratory. In the said circumstance, the 2nd respondent is directed to consider the claim for interim custody of the vehicle within two weeks, subject to satisfaction of the conditions as per the Full Bench decision of this Court reported in **Shan C.T. v. State of Kerala [2010 (3) KHC 333 =2010(3)KLT 413]**. Operative portion of the said judgment as contained in paragraphs 12 and 13 reads as follows:

“12. Having regard to the facts and circumstances of the case, we are of the opinion that

interim custody of the vehicle can be granted on condition that the owner of the vehicle deposits 30% of the value of the vehicle as determined by the appropriate authority under the Motor Vehicles Act in cash and a further condition that the owner of the vehicle should provide either a bank guarantee or immovable property security for the balance of the value of the vehicle. The amount so deposited and the security furnished would follow the final outcome of the confiscation proceedings.

13. We also deem it appropriate to direct that the proceedings under S.23 of the above mentioned Act confiscating the vehicle shall be concluded within six weeks from the date of seizure of the vehicle as far as possible, in which case the need to consider the interim custody of the vehicle may not normally arise. But if for any reason the authorities under the Act are not able to conclude the proceedings within the period of six weeks mentioned above, the interim custody of the vehicle shall be given to the owner on the conditions specified earlier. It is also made clear that to avoid any controversy and the allegations of undue delay on the part of either party to the proceedings, the competent authority shall put the owner on notice within a period of three days of the date of seizure and the owner or any other person interested in the vehicle shall file his objections to the confiscation within a week thereafter."

4. Claim for interim custody shall be considered, passing appropriate orders within one week. Further proceedings shall be pursued without prejudice to the rights and liberties of the respondents to proceed with the adjudication proceedings, which shall be finalised within six weeks thereafter in accordance with the law declared by this Court in **Sujith V State of Kerala (2012 (2) KLT 547)**.

5. It is made clear that the offence shall be reported to the concerned Magistrate having jurisdiction over the area by filing proper complaint with regard to the prosecution proceedings.

The petitioner will produce a copy of this judgment along with a copy of the Writ Petition before the concerned authority for appropriate action.

Writ petition is disposed of.

Sd/-
P.R.RAMACHANDRA MENON, JUDGE

vdv