

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4481 of 2015 (I)

PETITIONER :

**SAINUDDEEN.C,
S/O. ALIYAMU.C., AGED 28 YEARS,
CHANTHIRUTHI, CHAMRAVATTOM,
TIRUR, MALAPPURAM DT.**

**BY ADVS.SRI.B.V.JOY SANKER
SRI.BIJI MATHEW
SRI.PREMJI PAUL VAZHAPPILLY**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
CIVIL STATION, MALAPPURAM,PIN-676 505**
- 2. THE REVENUE DIVISIONAL OFFICER,
TIRUR, MALAPPURAM - 676 505.**
- 3. THE VILLAGE OFFICER,
THRIPPANGODE VILLAGE, MALAPPURAM - 676 141.**

R1 TO R3 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 4481 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - TRUE COPY OF THE REGISTRATION CERTIFICATE THE VEHICLE
NO. KL 08 AF 3132.**
- P2 - TRUE COPY OF THE PASS ISSUED UNDER THE KERALA PROTECTION OF
RIVER BANKS AND REGULATION OF REMOVAL OF SAND RULE 29(1) A OF
THE ACT DT. 06.1.15.**
- P3 - TRUE COPY OF SEIZURE MAHZAR ISSUED BY THE 3RD RESPONDENT
DT. 16.1.15.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 4481 of 2015

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Dated, this the 13th day of February, 2015

JUDGMENT

The petitioner is the owner of the vehicle bearing No. **KL 8 AF 3132**, as evident from Ext. P1 certificate of registration. On the strength of Ext. P2 pass issued under the Kerala Protection of River Banks and Regulations of Removal of Sand Act/Rules, the petitioner transported river sand, when the same was intercepted by the 3rd respondent and it was taken into custody, as per Ext. P3 seizure mahazar dated 16.01.2015. The insinuating circumstances as discernible from Ext. P3 is that some excess quantity, than the permitted quantity, as mentioned in Ext. P2, was carried in the vehicle and hence there was no valid document to support the transaction. According to the petitioner, there was no excess quantity and as such, the detention is per se wrong and illegal. Hence the challenge.

2. Heard the learned Government Pleader as well, who submits that though the vehicle was not weighed, Ext. P2 pass only

enables the petitioner to carry 3 MT, whereas on taking measurement of the platform, it was revealed that 5 MT of river sand was being carried in the vehicle. This is sought to be rebutted by the learned counsel for the petitioner stating that the petitioner is ready to have the same caused to be weighed in a weigh bridge, at the cost of the petitioner.

3. In the said circumstances, the third respondent is directed to cause the vehicle with river sand to be weighted in any approved weigh bridge at the cost and expense of the petitioner forthwith and if there is any excess quantity, the said excess quantity can be caused to be detained and the permitted quantity covered by Ext. P2 shall be released to the petitioner forthwith. If at all any offence is made out, the interim custody of the vehicle shall be given to the petitioner forthwith, on obtaining an undertaking in the form of an affidavit that the petitioner will produce the vehicle as and when called for and that the vehicle will not be alienated till the proceedings are finalized. It is for the second respondent to finalize the proceedings in accordance with law, within six weeks thereafter.

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: 3 :

The Petitioner shall produce a copy of this judgment along with copy of the writ petition before the second respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd