

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. 4785 of 2015 (W)

PETITIONER(S):

1. **MANSOOR, AGED 26 YEARS,
S/O.KUNHIMUHAMMED, THIRURKKAD P.O.,
ANGADIPURAM VIA, MALAPPURAM DISTRICT
(OWNER OF TIPPER LORRY BEARING REGISTRATION NO.KL-53-D-1232).**
2. **MUSTHAFA, S/O.MOKHARI, AGED 35 YEARS,
CHINGATH HOUSE, TIRURKKAD P.O., ANGADIPURAM,
PERINTHALAMANNA, MALAPPURAM DISTRICT.
(OWNER OF AN TIPPER LORRY BEARING REGISTRATION NO.KL-53-C-2809).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

1. **THE VILLAGE OFFICER, KURUVA VILLAGE, MALAPPURAM DISTRICT-685864.**
2. **THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.**

BY SENIOR 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:**

PJ

WP(C) NO..4785/2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 : COPY OF THE SEIZURE MAHAZAR DATED 12/2/15 PREPARED BY THE
1ST RESPONDENT**

**EXHIBIT P2 : COPY OF THE GO(MS)NO.20/14/ID DATED 12/2/14 ISSUED BY THE
PRINCIPAL SECRETARY TO GOVERNMENT INDUSTRIAL DEPARTMENT,
GOVERNMENT OF KERALA**

**EXHIBIT P3 : COPY OF THE INTERIM ORDER DATED 7/4/14 IN WPC.NO.8183/14 OF
THIS HONOURABLE COURT.**

**EXHIBIT P4 : COPY OF THE INTERIM ORDER DATED 7/10/14 IN WPC.25846/14 OF
THIS HONOURABLE COURT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 4785 of 2015

Dated this the 13th day of February, 2015

J U D G M E N T

Petitioners are the owners of the Tipper Lorries bearing Reg. Nos. KL-53-D-1232 & KL-53-C-2809, which was seized by the 1st respondent on 12.02.2015. The insinuation against the petitioners is that, there is contravention of the relevant provisions of the MMDR act, 1957 and KMMC Rules, 1967 which made the petitioners to approach this Court mainly challenging the authority of the 1st respondent in effecting seizure contending that, the same is beyond the power and jurisdiction of the said respondent as per Ext.P2 G.O. bearing No.G.O.(MS) No.20/14/ID dated 12.2.2014 issued by the Government.

2. Heard the learned Government Pleader as well who submits that the seizure was not effected by the 1st respondent on his own move, but on the specific direction given by the Sub Collector, as clearly stated in the Ext.P1.

3. After going through the contents of Ext.P1, this Court finds that the version of the petitioner is not liable to be accepted, as the seizure was effected with the authority and direction given by the Sub Collector, who happens to be a

notified authority at serial No.3 of Ext.P2.

4. The learned counsel for the petitioners submits that the petitioners would like to compound the offence in view of the enabling provisions of law.

5. With regard to the extent of amount to be satisfied as compounding fee, the Rules specifically stipulate that any offence under the Rules can be compounded subject to the satisfaction of the maximum fine prescribed under the Rules, which is stated as Rs.5,000/-. But in respect of the transportation of sand/earth without any valid pass/sanction, it is stated as an offence under the 'Act' itself by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the Act itself. The maximum fine in respect of such offence prescribed under the Act is stated as **Rs.25,000/-**. It was in the said circumstance, that this Court was passing orders enabling the party to have interim custody of the vehicle, on satisfaction of a sum of Rs.25,000/-, also directing the concerned respondent to consider the application for compounding, if any.

6. In view of the willingness expressed from the part of the petitioners to have the offence compounded, conceding the guilt, this Court finds it fit and proper to direct the respondent

to compound the offence, if the petitioners satisfy a sum of **Rs.25,000/- each**. It is ordered accordingly. On satisfaction of the compounding fee, the vehicles shall be released to the petitioners forthwith. It is made clear that once the offence alleged against the petitioners is compounded, no prosecution proceedings shall be pursued against them.

The Writ Petition stands disposed of accordingly. The petitioners shall produce a copy of this judgment along with a copy of this writ petition before the concerned respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE

Pn