

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 5749 of 2015 (P)

PETITIONER(S):

**BINU KUMAR,
S/O.RAMACHANDRAN PILLAI, CHOOTTIPURAYKKAL,
PANIJAREMURI, PANDANAD, CHENGANNUR,
ALAPUZHA.**

**BY ADVS.SRI.RAAJESH S.SUBRAHMANIAN
SRI.V.R.RAJESH**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, ALAPPUZHA - 688 101.**
- 2. REVENUE DIVISIONAL OFFICER,
CHENGANNUR, ALAPUZHA - 688 101.**
- 3. SUB INSPECTOR OF POLICE,
CHENGANNUR - 688 101.**
- 4. GEOLOGIST,
DISTRICT OFFICE, PATTANAMTHITTA - 689 645.**

BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 5749 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. TRUE COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE BEARING
REGISTRATION NO.KL-02-R-1386 OF THE PETITIONER.**

**EXHIBIT P2. TRUE COPY OF THE SEIZURE MAHAZAR DATED 19.02.2015 PREPARED
BY THE 3RD RESPONDENT.**

**EXHIBIT P3. TRUE COPY OF THE REPORT DATED 19.02.2015 BEARING NO.57/15/J1
PREPARED BY THE 3RD RESPONDENT.**

**EXHIBIT P4. TRUE COPY OF THE BUILDING PERMIT BEARING NO.M4/4365/14
DATED 12.01.2015.**

**EXHIBIT P5. TRUE COPY OF THE ORDER DATED 11.02.2015 BEARING
NO.581/14-15/99/DOPTA/M/15 DATED 11.02.2015.**

**EXHIBIT P6. TRUE COPY OF THE P-FORM DATED 12.02.2015 ISSUED BY THE
4TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 5749 of 2015

Dated this the 25th day of February, 2015

J U D G M E N T

The vehicle/Tipper Lorry bearing Registration No.KL-02-R-1386, belonging to the petitioner was intercepted and seized by the 3rd respondent on 19.02.2015 as per Ext.P2 mahazar, holding that no proper valid document was there, in support of the transportation of 'ordinary earth' and that the pass produced before the Sub Inspector of Police was a mutilated one, by over writing something by the person who produced the same.

2. The case of the petitioner is that, the material was being transported on the strength of valid document, particularly, Ext.P6 'cash memorandum' issued by the competent authority and that no incriminating circumstance was there. The learned counsel also points out that, it was on the basis of Ext.P4 permit that the sand was excavated and was being transported.

3. The factual position is sought to be rebutted by the learned Government Pleader with reference to the materials on record. In view of the disputed question of fact, this Court finds that the matter requires to be reported to the concerned

Magistrate's Court, having jurisdiction over the area.

4. Accordingly, there will be a direction to the 3rd respondent to report the matter in respect of the offences, if any, to the concerned Magistrate having jurisdiction over the area by filing necessary proceedings for prosecution, within 'three days' from the date of receipt of a copy of this judgment. It is open for the petitioner to approach the concerned Magistrate's Court for interim custody of the vehicle, which is to be considered and appropriate orders shall be passed subject to appropriate terms.

The writ petition stands disposed of. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the 3rd respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.