

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 9410 of 2008 (T)

PETITIONER(S):

- 1. JESSY MATHEW, AGED 49 YEARS,
VAZHIPLACKAL HOUSE, NEDUMKUNNAM P.O.
KOTTAYAM DISTRICT.**
- 2. SAINUDHEEN RAWTHER, THATTAPARAMBIL
HOUSE, NEDUMKUNNAM P.O., KOTTAYAM DISTRICT.**

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, COLLECTORATE,
KOTTAYAM -2, KOTTAYAM DISTRICT.**
- 2. THE TAHSILDAR, TALUK OFFICE, KOTTAYAM.**
- 3. THE GEOLOGIST, MINING AND GEOLOGY,
DISTRICT OFFICE, CIVIL STATION, COLLECTORATE P.O.
KOTTAYAM DISTRICT.**
- 4. THE GEOLOGIST,
MINING AND GEOLOGY DISTRICT OFFICE,
SANATHANAPURAM P.O., ALAPPUZHA - 3,
ALAPPUZHA DISTRICT.**

BY GOVERNMENT PLEADER SRI.ABHIJITH LESSLI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLES BEARING REGISTRATION NUMBERS KL.8.H 6775**
- P1(A): COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLES BEARING REGISTRATION NO. KL.7U 8215**
- P2: COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLES BEARING REGISTRATION NO. KL.7U 1485**
- P2(A): COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLES BEARING REGISTRATION NO. KL.7U 1485 AND THE AGREEMENT ENTERED INTO BETWEEN THE 2ND PETITIONER AND THE REGISTERED OWNER**
- P3: COPY OF THE 'P' FORM ISSUED BY THE DEALERS IN SAND TO THE PETITIONERS VEHICLE BEARING REGISTRATION NO.KL.08 H 6775**
- P3(A): COPY OF THE 'P' FORM ISSUED BY THE DEALERS IN SAND TO THE PETITIONERS VEHICLE BEARING REGISTRATION NO.KL.7U 8215**
- P3(B): COPY OF THE 'P' FORM ISSUED BY THE DEALERS IN SAND TO THE PETITIONERS VEHICLE BEARING REGISTRATION NO.KL.7U 1485**
- P4: COPY OF THE SEIZURE MAHAZAR DATED 29/1/2008 ISSUED BY THE R2 TO THE PETITIONERS**
- P4(A): COPY OF THE SEIZURE MAHAZAR DATED 29/1/2008 ISSUED BY THE R2 TO THE PETITIONERS**
- P5: COPY OF THE RECEIPTS ISSUED BY THE CHERTHALA TALUK ORDINARY SAND DEALERS ASSOCIATION DATED 29/1/2008 TO THE PETITIONERS VEHICLE**
- P6: COPY OF THE JUDGEMENT DATED 4/3/2008 IN WPC.NO.7500/2008 OF THIS HONOURABLE COURT.**
- P7: COPY OF THE ORDER DATED 13/3/2008 PASSED BY THE R1**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K.SURENDRA MOHAN, J.

W.P.(C) No.9410 of 2008

Dated this the 27th day of February, 2015

J U D G M E N T

The only issue that survives in this writ petition is whether the impugned order, Exhibit P7, of the District Collector is sustainable or not.

2. The petitioners are registered owners of lorries bearing Regn.Nos.KL- 7 U-1485 and KL-8H-6775 and KL-7U 8215 respectively. The vehicles were detained on 29.01.2008, alleging that it was involved in the transportation of river sand. The vehicles were having permits, it is stated. As per Exhibit P7, the first respondent has imposed a fine of ₹25000/- respectively on each of the vehicles.

3. According to the counsel for the petitioners, the first respondent has no authority to impose the fine. Reliance is placed on the decision of this Court in **Sanjayan v. Tahsildar** [2007(4) KLT 597] to contend that, the action

of the second respondent is without any authority.

4. Heard the counsel for the petitioner as well as the learned Government Pleader. In view of the dictum laid down by this Court in **Sanjayan v. Tahsildar** (Supra), it has to be held that, Exhibit P7 to the extent it has imposed fine on the petitioners is unsustainable. Therefore, the same is set aside to the said extent.

5. It is submitted by the counsel for the petitioners that some amount has been deposited pursuant to Exhibit P7. Needless to observe that the petitioner shall be given credit for the said amount while, finalising further proceedings in the matter.

This writ petition is disposed of accordingly.

Sd/-
K.SURENDRA MOHAN,
JUDGE

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