

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

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

WP(C).No. 5791 of 2015 (Y)

PETITIONER(S):

1. **BINURAJ, AGED 24 YEARS,
S/O. RAJAN, THALIKAYIL, NERIYAMANGALAM P.O.
NERIYAMANGALAM VILLAGE, KOTHAMANGALAM TALUK
ERNAKULAM DISTRICT (OWNER OF LORRY BEARING REGISTRATION
NO. KL 7 AR 4789).**
2. **M.P. VIJU
S/O. PAPPUTTY, MOLEKUIDIYIL
NERIYAMANGALAM P.O. KUTTAMPUZHA VILLAGE
KOTHAMANGALAM TALUK
ERNAKULAM.
(OWNER OF LORRY BEARING REGISTRATION NO. KL 6 C 4425)**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

1. **RANGE FOREST OFFICER, NERIYAMANGALAM
RANGE, ERNAKULAM DISTRICT - 682 605.**
2. **THE SUB INSPECTOR OF POLICE,
OONNUKAL POLICE STATION, ERNAKULAM - 682 605.**
3. **THE REVENUE DIVISIONAL OFFICER (RDO)
MUVATTPUZHA, ERNAKULAM DISTRICT- 682 605.**

BY SPECIAL GOVERNMENT PLEADER SRI.M.A.THOMASKUTTY,

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 5791 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1- TRUE COPY OF THE MAHAZAR DATED 01/02/2015 PREPARED BY THE
IST RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 5791 of 2015

Dated this the 27th day of February, 2015

J U D G M E N T

Petitioners are the owners of the vehicles/Lorries bearing registration Nos.KL-7-AR-4789 & KL-6-C-4425, which were seized by the 1st respondent on 01.02.2015 as per Ext.P1 mahazar. It is stated that after the seizure, the 1st respondent has produced the vehicles before the Judicial First Class Magistrate Court - II, Kothamangalam, as conceded by the petitioners in paragraph 1 of the writ petition.

2. The case of the petitioners is that, the commodity transported by the petitioners was never river sand but weathered sand and no offence under the Sand Act is involved. If a sample has been taken and tested, the true state of affairs can be brought to light, submits the learned counsel for the petitioners. It is also submitted that, there is absolutely no power, jurisdiction or authority vested with the 1st respondent, an Officer of the Forest Department, who has taken action under the Sand Act, hence the challenge.

3. Heard the learned Special Government Pleader appearing on behalf of the respondents, who submits that, the idea and understanding of the petitioners is wrong and misconceived. It is stated that the vehicles were deployed by the petitioners for unauthorised excavation and transportation of the sand from the Forest area and as such, offence under the Kerala Forest Act, 1961 is involved. It is stated that, a case has been registered as O.R. No.1/2015, and the vehicles have already been produced before the concerned Magistrate's Court.

4. In the above circumstances, the petitioners are at liberty to approach the concerned Magistrate's Court by way of appropriate proceedings, for appropriate relief. Without prejudice to the rights and liberties of the petitioners as above, interference is declined and the writ petition stands dismissed.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.