

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 10199 of 2008 (L)

PETITIONER :

GOPINATH, S/O. MADHAVAN,
AGED 52 YEARS, ORAVALIL HOUSE, CHEMMANATHUKARA P.O.
VAIKOM, KOTTAYAM DISTRICT.

BY ADVS.SRI.P.R.SREEJITH
SRI.K.B.SAJEESH

RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR, KOTTAYAM.
3. THE ADDITIONAL TAHSILDAR, KOTTAYAM.
4. THE GEOLOGIST,
DISTRICT OFFICE OF THE DEPARTMENT OF MINING AND
GEOLOGY, KOTTAYAM DISTRICT.

R BY SR.GOVERNMENT PLEADER SRI.E.M.ABDUL KHADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 10199 of 2008 (L)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE CASH MEMORANDUM DATED 29.1.2008 ISSUED BY THE LICENSED TRADER FOR SALE OF ORDINARY SAND

EXT.P2 : COPY OF THE LICENSE DATED 7.12.2007 HELD BY THE LICENSEE FOR THE STOCK AND SUPPLY OF ORDINARY SAND

EXT.P3 : COPY OF THE SEIZURE MAHAZAR DATED 29.1.2008 DRAWN BY THE 3RD RESPONDENT

EXT.P4 : COPY OF THE REQUEST DATED 1.2.2008 BEFORE THE 2ND RESPONDENT SUBMITTED BY THE PETITIONER'S SON

EXT.P5 : COPY OF THE NOTICE DATED 2.2.2008 ISSUED BY THE 2ND RESPONDENT

EXT.P6 : COPY OF THE NOTICE FOR REHEARING DATED 15.2.2008 ISSUED BY THE 2ND RESPONDENT

EXT.P7 : COPY OF THE JUDGMENT DATED 6.3.2008 IN WRIT PETITION (C)7691/2008 OF THIS HON'BLE COURT

EXT.P8 : COPY OF THE ORDER DATED 13.3.2008 OF THE 2ND RESPONDENT

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

K.SURENDRA MOHAN, J.

W.P.(C) No.10199 of 2008

Dated this the 2nd day of March, 2015

J U D G M E N T

The only issue that survives in this writ petition is whether the impugned order Exhibit P8 of the District Collector is sustainable or not.

2. The petitioner is the registered owner of a Tipper Lorry bearing Registration No.KL-5P-8040. The vehicle was detained on 29.01.2008, alleging that it was involved in the transportation of river sand. The vehicle was having a permit, it is stated. As per Exhibit P8, the 2nd respondent has imposed a fine of ₹25,000/- on the petitioner.

3. According to the counsel for the petitioner, the 2nd 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 2nd 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 P8 to the extent it has imposed a fine on the petitioner is unsustainable. Therefore, Ext.P8 is set aside to the said extent, only in so far as it relates to the petitioner.

5. It is submitted by the counsel for the petitioner that some amount has been deposited pursuant to Exhibit P8. 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.

AV