

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 7195 of 2014 (Y)

PETITIONER(S):

**HARI KUMAR, AGED 50 YEARS
S/O CHANDRASENAN
RESIDING AT THOTTAYIL PUTHUPPALLI P.O, KARTHIKAPPALLY
ALAPPUZHA DISTRICT PIN CODE**

BY ADV. SRI.M.G.SREEJITH

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY
HOME DEPARTMENT GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695001**
- 2. THE DISTRICT COLLECTOR,
ALAPPUZHA 688001**
- 3. THE GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT, KOLLAM 691013**
- 4. THE EXECUTIVE ENGINEER,
DISTRICT PANCHAYATH OFFICE, ALAPPUZHA 688001**
- 5. THE ASSISTANT SUB INSPECTOR OF POLICE,
OACHIRA POLICE STATION, OACHIRA
KAYAMKULAM ALAPPUZHA DISTRICT 690526**

BY ADV.SMT.ANITHA RAVINDRAN, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE PERMIT DATED 21-02-2012 ISSUED BY THE SECRETARY, RTA, KAYAMKULAM

EXHIBIT P2 TRUE COPY OF THE REGISTRATION CARD ISSUED BY THE REGISTERING AUTHORITY WITH REGISTRATION NO 26/BSC/2013-2014 DATED 23-04-2013

EXHIBIT P3 TRUE COPY OF THE POWER OF ATTORNEY EXECUTED BY SRI.SHAJAHAN IN FAVOR OF THE PETITIONER DATED 10-01-2014

EXHIBIT P4 TRUE COPY OF THE PROCEEDINGS NO 745/2013-14/DOQ/S2/522/2014 DATED 19-02-2014 ISSUED BY THE 3RD RESPONDENT

EXHIBIT P5 A TRUE COPY OF THE COUNTER FOIL OF THE BILL ISSUED BY THE 3RD RESPONDENT

EXHIBIT P6 A TRUE COPY OF THE CHELLAN GIVEN BY THE 5TH REPSONDENT WITH THE ENTRIES

RESPONDENT'S EXHIBITS: NIL

R.AV

//TRUE COPY//

PATO JDUGE

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.7195 OF 2014
.....

Dated this the 4th March, 2014

J U D G M E N T

The vehicle bearing No. **KL.04.V.450** was seized by the fifth **respondent/Asst. S.I. of Police** on 07.03.2014 alleging offence under the Mines and Mineral (Development and Regulation) Act and the Kerala Minor Mineral Concession Rules. The main ground of challenge is that, the respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala [2014(1) KLT 536]**. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment rendered by a Division Bench of this Court in **Construction Materials Movers Association V. State of Kerala [2008 (4) KLT 909]**. In the said circumstance, there is no tenable ground

to call for interference.

4. When the matter came up for consideration on 19.03.2014. the vehicle was caused to be released, **on production of the said order.** In the said circumstance, the further course of action required is to surrender the vehicle before the respondent, so as to enable the respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioner expresses desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioner to have it compounded on satisfying the compounding fee of Rs.25,000/- within **two weeks** from the date of receipt of a copy of this judgment. Once the offence is compounded, no prosecution proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police** [2013(1) KLT 600]. It shall be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in compounding the

offence, the respondent shall pursue further steps to **seize the vehicle** and proceed with steps for prosecution.

The writ petition is disposed of.

**P.R.RAMACHANDRA MENON
JUDGE**

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