

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 7176 of 2015 (V)

PETITIONER:

**MUHAMMED RAFI AGED 28 YEARS
RARAMKANDATH HOUSE, MELEZHIYAM, ANAKKARA
PALAKKAD DISTRICT (REGISTERED OWNER OF A MINI
LORRY BEARING REGISTRATION NO. KL-51/5034).**

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

- 1. THE REVENUE DIVISIONAL OFFICER
OTTAPALAM, PALAKKAD DISTRICT, PIN-679101.**
- 2. THE DEPUTY TAHSILDAR
TALUK OFFICE, PATTAMBI, PALAKKAD DISTRICT
PIN-679303.**

BY SRI K.C. VINCENT, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 7176 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 : COPY OF THE SEIZURE MAHAZAR PREPARED BY THE SECOND
RESPONDENT DATED 25-2-2015.**

RESPONDENT(S)' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

P.R. RAMACHANDRA MENON, J.

W.P.(C).No.7176 of 2015

Dated this the 6th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- i) Issue a writ of mandamus or any other appropriate writs, orders of directions commanding the respondents to release the vehicle bearing registration No.KL-51/5034 to the petitioner forthwith;
- ii) Declare that the seizure of the vehicle of the petitioner by the second respondent is illegal as he is not an authorized officer under the provisions of the M.M.D.R. Act and K.M.M.C. Rules, 1967;
- iii) Grant such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. The learned counsel for the petitioner points out that the vehicle bearing Registration No.KL-51/5034 belonging to the petitioner has been wrongly seized by the 2nd respondent absolutely without any power or authority as evident from Ext.P1 Mahazar dated 25.02.2015. It is stated that the 2nd respondent is not a competent authority notified by the Government so as to seize the vehicle or to proceed with further steps in connection with the alleged offences under the K.M.M.C. Rules or the Mines

and Minerals (Development and Regulation) Act.

3. The version of the petitioner is sought to be rebutted by the learned Government Pleader pointing out that the seizure has not been effected by the 2nd respondent on his own, but as directed by the Sub-Collector as evident from the contents of Ext.P1 mahazar. The Sub-Collector is a notified authority as per the notification dated 12.02.2014 and as such, the idea and understanding of the petitioner is wrong and mis-conceived. The learned Government Pleader also makes a reference to Rule 109 of the K.M.M.C. Rules explaining the role of the Police and revenue authorities so as to render necessary assistance to prevent commission of offence under MDR Act. The learned counsel for the petitioner seeks for permission to compound the offence.

4. In the above circumstance, the 2nd respondent is directed to take all necessary steps to report the seizure of vehicle bearing No.**KL-51/5034** before the concerned Magistrate along with necessary complaint, at the earliest, at any rate, within 'one week'; unless the offence is compounded. If the petitioner files a petition before the first respondent to compound the offence, it

can be allowed subject to satisfaction of a sum of Rs.25,000/- (Rupees twenty five thousand only) as the compounding fee. Once the offence is compounded, no prosecution proceedings will lie.

The writ petition is disposed of.

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

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

jv