

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. 7583 of 2014 (W)

PETITIONER(S):

1. SIVARAJAN, S/O.RAGHAVAN,
KUNNEL KADAVU HOUSE, PUTHUPPALLY VILLAGE,
KAYAMKULAM, ALAPUZHA DISTRICT.
2. SHUBIN,S/O.THULASIDHARAN,
SHINE VILLA, MADATHIL KARANMA P.O.,
OACHIRA, KOLLAM.

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. DISTRICT COLLECTOR, ALAPUZHA-686 101
3. SUB INSPECTOR OF POLICE, KAYAMKULAM-686 146
4. DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM.PIN-695 001

BY GOVERNMENT PLEADER SRI.ANITHA RAVINDRAN

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

sts

WP(C).NO.7583/2014

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE REGISTRATION CERTIFICATES OF THE VEHICLE BEARING REG.NO.KL-29-D-8650.**
- P2 COPY OF THE PERMIT DATED 5/3/2014 ISSUED BY THE GEOLOGIST, PATHANAMTHITTA.**
- P3 COPY OF THE P-FORM ISSUED BY THE PROPERTY OWNER AS PER RULE 48 K**
- P4 COPY OF THE MAHAZAR PREPARED BY THE KAYAMKULAM POLICE.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.7583 OF 2014
.....

Dated this the 4th March, 2014

J U D G M E N T

The vehicle bearing No. **KL.29.D/8650** was seized by the third **respondent/S.I. of Police** on 12.03.2014 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 17.03.2014, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/- and on execution of a simple bond.** In the said circumstance, the further course of action required is to surrender the vehicle before the concerned 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 petitioners express 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 petitioners to have the offence compounded on satisfying the compounding fee of **Rs.25,000/-**. The amount ordered to be paid as per the interim order dated 17.03.2014 shall be treated as compounding fee and offence shall be treated as compounded. 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 satisfying the compounding fee, the respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

/k