

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 11335 of 2008 (Y)

PETITIONER:

**SHIAHABUDHEEN CHOLASSERI
S/O. MOHAMMED AGED 30 YEARS, CHOLASSERIL HOUSE, KODUR
MALAPPURAM DISTRICT**

BY ADV. SRI.P.SAMSUDIN

RESPONDENT(S):

THE DISTRICT COLLECTOR, MALAPPURAM.

BY GOVERNMENT PLEADER SRI E M ABDUL KHADIR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

kkj

WP(C).No. 11335 of 2008 (V)

APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1: TRUE COPY OF THE ORDER OF THE DISTRICT COLLECTOR DATED
 14-03-2008**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

PA TO JUDGE

K.SURENDRA MOHAN, J.

W.P.(C) No.11335 of 2008

Dated this the 9th day of February, 2015

J U D G M E N T

On 20.01.2008, a goods auto (Piageo Ape) owned by the petitioner was seized by the Police for allegedly transporting unauthorised river sand. Proceedings were initiated against the petitioner's vehicle on the ground that the sand was transported without a valid permit. Thereafter, an order was passed under Rule 27(3) of the Kerala Protection of River Banks and Regulation of Removal of Sands Rules, 2002 (hereinafter referred to as 'the Rules' for short) imposing a fine of ₹25,000/- on the petitioner. A copy of the said order is Exhibit P1. It has also been directed in Exhibit P1 by the respondent that, the vehicle would be released to the petitioner on his depositing an amount of ₹10,000/- that has been fixed as the value thereof. The petitioner has filed this writ petition challenging Exhibit P1.

2. This writ petition was admitted on 03.04.2008. As per the interim order issued in this case, the petitioner had deposited the amount of ₹10,000/- and executed a bond for ₹25,000/- with two solvent sureties to the satisfaction of the respondent. Accordingly the vehicle was released to the petitioner. The petitioner is in possession of the vehicle.

3. According to the counsel for the petitioner, Exhibit P1 is unsustainable and liable to be set aside. It is contended that, the respondent has exceeded his authority in imposing a fine of ₹25,000/- for which he had no power. The decision of this Court in **Sanjayan v. Tahsildar** [2007 (4) KLT 597] is relied upon to contend that the respondent had no authority to impose the fine.

4. A counter affidavit has been filed on behalf of the respondent. According to the learned Government Pleader, the petitioner was found to have violated the provisions of the Rules and transported unauthorised sand and that was why the vehicle was seized.

5. Heard. In view of the dictum laid down by a Division Bench of this Court in **Sanjayan v. Tahsildar** (Supra), there cannot be any doubt that the respondent had no authority to impose a fine of ₹25,000/- on the petitioner. It has been held by the Division Bench that no Revenue Authority has a power to impose fine, such fine could be imposed only by a court of law.

In view of the above, Exhibit P1 to the extent it has imposed a fine of ₹25,000/-on the petitioner is set aside. Since the vehicle has been released to the petitioner in accordance with the interim order issued by this Court, Exhibit P1 is sustained except to the above extent. The above writ petition is disposed of accordingly.

Sd/-
K.SURENDRA MOHAN,
JUDGE

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