

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 7943 of 2015 (P)

PETITIONER(S):

**HAREES A.K., AGED 36 YEARS,
S/O. ABDUL KAREEM, KOTTOPPILLY HOUSE, MANALYMUKKU,
EDATHALA, ALUVA.**

BY ADV. SMT.M.M.JASMIN

RESPONDENT(S):

**1. SUB INSPECTOR OF POLICE,
ELOOR POLICE STATION, ELOOR - 683 501.**

**2. THE ADDITIONAL TAHSILDAR,
NORTH PARAVUR - 683 513.**

**3. THE VILLAGE OFFICER,
VILLAGE OFFICE, ELOOR - 683 501.**

*** ADDITIONAL R4 IMPLEADED.**

**4. THE DISTRICT COLLECTOR,
ERNAKULAM - 682 030.**

*** R4 IS IMPLEADED AS PER ORDER DTD.19.3.2015 IN IA.3927/2015.**

BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 7943 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P1 - TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE TIPPER LORRY BEARING REGISTRATION NO. KL-07 BF 4584.**
- EXT. P2 - TRUE COPY OF THE CERTIFICATE OF NATIONAL INSURANCE COMPANY LTD. TO THE PETITIONER.**
- EXT. P3 - TRUE COPY OF THE GOODS CARRIAGE PERMIT DT. 15.1.15 ISSUED BY THE SUB REGIONAL TRANSPORT OFFICER, ALUVA.**
- EXT. P4 - TRUE COPY OF THE TAX RECEIPT BEARING NO. 5123473 DT. 30.9.14.**
- EXT. P5 - TRUE COPY OF GENERAL BUILDING PERMIT ISSUED BY THE ELOOR MUNICIPALITY IN FAVOUR SURESH DT. 10.12.14.**
- EXT. P6 - TRUE COPY OF THE SKETCH MAHAZAR PREPARED BY THE 3RD RESPONDENT DATED. 24.2.15.**
- EXT. P7 - TRUE COPY OF FORM P CASH MEMORANDUM ISSUED UNDER RULE 48 OF THE KERALA MINOR MINERAL CONCESSION RULES 1967.**
- EXT. P8 - TRUE COPY OF THE COMPLAINT SUBMITTED BY THE SURESH BEFORE THE 2ND RESPONDENT DT. 25.2.15.**
- EXT. P9 - TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DT. 25.2.15.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R.RAMACHANDRA MENON, J.

W.P.(C).No.7943 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- i. Declare that the proceedings pursuant to Ext.P6 seizure mahazar are illegal and arbitrary.*
- ii. Issue a writ of mandamus or any other appropriate writ order of direction, commanding the respondents to release the Tipper Lorry bearing reg.No.KL-07-BF 4584 to the petitioner forthwith and to hold that the proceedings pursuant to Ext.P6 is illegal and arbitrary.*

2. The learned Government Pleader appearing for the respondents submits that the seizure of the vehicle, bearing registration No.KL-07-BF-4584 belonging to the petitioner, was for violation of the offence under Act 28 of 2008. According to the petitioner no offence has been committed by the petitioner. In view of the disputed question of fact the matter required to be considered by the additional fourth respondent. In the said circumstances, if any application is filed by the petitioner before the additional fourth respondent, within two weeks from the date

W.P.(C).No.7943 of 2015

of receipt of a copy of this judgment, the same shall be considered and interim custody shall be released to the petitioner, passing appropriate orders subject to furnishing security either in the form of bank guarantee or in the form of immovable property reckoning 1.5 times value of the vehicle. The adjudication proceedings shall be finalised, at the earliest, at any rate, within two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of.

Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the additional fourth respondent, for further steps.

Sd/-

**P.R.RAMACHANDRA MENON,
JUDGE.**

rkc.