

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 8435 of 2015 (D)

PETITIONER :

**SANTHOSH,
S/O.NARAYANAMENON, AGED 40 YEARS,
THRIKANDIYUR HOUSE, KADANCHERY.P.O.,
MALAPPURAM, OWNER OF TIPPER BEARING NO.KL-10-V-9744.**

BY ADV. SRI.S.SHAJAHAN (ADOOR)

RESPONDENT(S):

- 1. THE REVENUE DIVISIONAL OFFICER,
THIRUR, MALAPPURAM DISTRICT-676 301**
- 2. THE DEPUTY THASILDAR,
PONNANI,PIN-676 101**

R1 & R2 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.8435/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE SAID SEIZURE MAHAZAR DATED 13/03/2015 PREPARED BY THE
RESPONDENT
- P2 COPY OF THE P-FORM DATED 13/03/2015 ISSUED BY THE DISTRICT
GEOLOGIST, MINING AND GEOLOGY DEPARTMENT PALAKAD.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 8435 of 2015

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Dated, this the 17th day of March, 2015

JUDGMENT

The petitioner, who is the owner of tipper lorry bearing No. **KL 10 V 9744**, is aggrieved of the seizure of the vehicle on 13.03.2015 by second respondent, alleging that the vehicle was being used illegally for transporting red earth. The learned counsel for the petitioner submits that red earth was transported on the strength of Ext. P2 Form O (A) issued by the Geologist and hence the challenge.

2. Heard the learned Government Pleader as well, who submits that the petitioner actually misused the Form O (A) issued by the Department of Mining and Geology Department.

3. The learned counsel for the petitioner submits that the petitioner is ready to compound the offence.

4. The issue involved in this case is, whether the petitioner, who has been proceeded against in respect of the offences under the Mines and Mineral (Development and Regulation) Act, 1957 and the Kerala Minor Mineral Concession Rules is entitled to have the offence compounded in view of the desire expressed from his side in this regard.

5. Section 23A of the 'Act' and the relevant Rules enable the parties to have the offence compounded. The Rules specifically stipulate that any offence under the Rules can be compounded subject to the satisfaction of the maximum fine prescribed under the Rules, which is stated as Rs.5,000/-. But in respect of the transportation of sand/earth without any valid pass/sanction, it is stated as an offence under the 'Act' by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the 'Act' itself. It was in the said circumstance, that this Court has been passing various orders in similar matters enabling the concerned parties to have the interim custody of the vehicle on satisfaction of a sum of **Rs.25,000/-** and also by directing the concerned respondent to consider the application for compounding, if any.

6. A question arose before this Court as to whether the prosecution proceedings could be pursued further, once the offence is compounded in accordance with the relevant provisions. This issue has already been considered and decided by this Court in **2013 (1) KLT 600 (Digil v. Sub Inspector of Police)**, holding that, once the offence is compounded, there cannot be any further prosecution proceedings.

7. In view of the law declared as mentioned herein before, there will be a direction to the second respondent to consider the application filed by the petitioner to compound the offence; and pass appropriate orders forthwith, subject to satisfaction of a sum of **Rs.25000/-** as the compounding fee. Once the offence is compounded, no prosecution proceedings shall lie against the petitioner.

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

The Writ Petition is disposed of.

Sd/-

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

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