

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 11685 of 2013 (I)

PETITIONER(S):

**VISWANATHAN, AGED 42 YEARS,
S/O.APPUKUTTAN NAIR, 556, MALAYIL VARYATHU,
VALLICODE, KAIPATTOOR , PATHANAMTHITTA DIST**

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
PATHANAMTHITTA - 689 545.**
- 2. THE REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE, ADOOR,
PATHANAMTHITTA - 689 545.**
- 3. THE VILLAGE OFFICER,
KODUMON, PATHANAMTHITTA - 689 545.**
- 4. THE SUB INSPECTOR OF POLICE,
KODUMON POLICE STATION, PATHANAMTHITTA - 689 545.**

BY GOVERNMENT PLEADER SRI.P.M.JOSEPH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 11685 of 2013 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1:-TRUE COPY OF THE JUDGMENT DTD 21/1/2013 IN WPC NO 1927 OF 2013 OF THIS HON'BLE COURT.

EXT.P2:-TRUE COPY OF THE ORDER DTD 2/3/2013 OF THE FIRST RESPONDENT.

EXT.P3 TO P3(C):-TRUE COPY OF THE RECEIPTS DTD 18/3/2013 ISSUED BY THE STATE BANK OF TRAVANCORE, ADOOR BRANCH EVIDENCING THE PAYMENT OF RS,1,36,500/-

EXT.P4:-TRUE COPY OF THE ORDER DTD 19/3/2013 OF THE 2ND RESPONDENT.

EXT.P5:-TRUE COPY OF THE ORDER DTD 30/3/2013 OF THE FIRST RESPONDENT.

EXT.P6:-TRUE COPY OF THE COMMUNICATION DTD 15/4/2013 OF THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.M. SHAFFIQUE, J.

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W.P. (C) No. 11685 of 2013

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Dated this, the 18th day of November, 2015

J U D G M E N T

Petitioner challenges Ext.P5 by which the District Collector passed final orders in a matter arising under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 and the Rules framed thereunder.

2. Petitioner's vehicle bearing Regn.No.KL-05 P 6375 was seized on the allegation of removal of river sand without necessary permission in terms with the Rules. Enquiry was conducted and initially the vehicle was released on payment of full amount as directed in Ext.P2. Final orders were passed in terms of Ext.P5 calling upon the petitioner to remit the value of the vehicle which amounts to ₹1,95,000/- and a further fine of ₹58,500/-. Petitioner challenges Ext.P5 order inter alia contending that there is no power enabling the revenue officials to impose fine in terms with the Act or the Rules framed thereunder. This issue is covered by the Division Bench judgment of this Court in Sub Divisional Magistrate v. V.Pratheesh Kumar (2015 (3) KLT

-:2:-

448) by which the Division Bench had upheld the power of the Collector to impose fine. However, it was stated that the fine cannot exceed the amount of fine as provided under Section 20 of the Act. Accordingly, it is submitted by the learned counsel for the petitioner that the fine imposed requires a reduction.

3. Having regard to the law laid down by this Court in *Pratheesh Kumar (supra)*, I am of the view that the fine imposed can be reduced to ₹25,000/- .

Accordingly, this writ petition is partly allowed and Ext.P5 is modified to the extent of reducing the fine from ₹58,500/- to ₹25,000/- (Rupees Twenty five thousand only). Petitioner shall be liable to pay the said amount to the authorities, failing which necessary steps can be taken by the revenue authorities for recovering the said amount.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

18/11/2015

//True Copy//

PS to Judge