

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 12050 of 2013 (E)

PETITIONER:

**PRADEEP P.V, AGED 39 YEARS
S/O.VELAYUDHAN, PONNARASSERY HOUSE, CHOONDAL
THRISSUR DIST(REGISTERED OWNER OF A MINI
LORRY BEARING REGISTRATION KL-07M/7277).**

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

- 1. THE DISTRICT COLLECTOR
THRISSUR, PIN-680001.**
- 2. THE SUB INSPECTOR OF POLICE
VADAKKEKAD POLICE STATION,
THRISSUR DIST, PIN-679562.**

BY GOVERNMENT PLEADER SRI.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:- TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE 3RD
RESPONDENT DTD 25/4/2013**
- EXT.P2:- TRUE COPY OF THE INTERIM ORDER DTD 3/4/2009 IN WPC NO
11206/2009 OF THIS HON'BLE COURT**
- EXT.P3:- TRUE COPY OF THE INTERIM ORDER DTD 7/12/2011 IN WPC NO
31828/2011 OF THIS HON'BLE COURT**
- EXT.P4:- TRUE COPY OF THE INTERIM ORDER DTD 3/6/2011 IN WPC NO
15058/2011 OF THIS HON'BLE COURT**
- EXT.P5:- TRUE COPY OF THE INTERIM ORDER DTD 11/3/2011 IN WPC NO
7689/2011 OF THIS HON'BLE COURT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R.RAMACHANDRA MENON, J.

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Dated this the 9th day of March, 2015

JUDGMENT

The vehicle bearing No.KL-07M-7277 belonging to the petitioner was seized by the second respondent alleging violation of the provisions of Act 28 of 2008. Ext.P1 is the seizure mahazar. This was sought to be challenged by filing the writ petition.

2. When the matter came up for consideration before this Court on 10.5.013, the writ petition was admitted and an interim order was also passed, so as to release the vehicle belonging to the petitioner. No counter affidavit has been filed so far. It appears that the petitioner produced various interim orders passed in different cases as Exts.P2 to P5 and on the strength of the said interim orders, a similar interim order was passed on the present case as well. On going through the pleadings and proceedings, it is seen that the interim orders passed in the other connected cases were with reference to the offence under the

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MMDR Act/KMMC Rules, whereas in the instant case, it was in connection with alleged unauthorised filling up of the paddy land which comes under Act 28 of 2008. The manner in which the issue has to be dealt with also stands on a different footing. But since no counter affidavit has been filed, this Court finds it difficult to arrive at a finding on fact.

In the said circumstances, the first respondent is directed to consider the matter and pass appropriate orders to see whether the offence involved is under Act 28 of 2008 or whether it is under the MMDR Act/KMMC Rules. If it is under the former Act, further proceedings shall be taken to take the proceedings to a logical conclusion, so also if the offence is under the latter Act, appropriate proceedings by way of prosecution shall be initiated immediately, unless the offence is sought to be compounded by the petitioner. If the offence is only under the MMDR Act/KMMC Rules by virtue of the enabling provisions of law, the petitioner is entitled to have the offence compounded. If he is willing to pursue such a course, this Court finds it fit and proper to direct the second respondent to compound the offence, if the petitioner

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satisfies a sum of **Rs. 25,000/-**. It is ordered accordingly. It is made clear that once the offence alleged against the petitioner is compounded, no prosecution proceedings shall be pursued against him. If the offence is under Act 28 of 2008, the first respondent shall finalise the proceedings, after giving an opportunity of hearing to the petitioner, at the earliest, at any rate, within two months from the date of receipt of a copy of this judgment.

Sd/-
P.R.RAMACHANDRA MENON,
JUDGE.

rkc.