

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9494 of 2015 (J)

PETITIONER:

**DAVIS THOMAS, AGED 37 YEARS,
S/O.THOMAS, PYNADATHU HOUSE,
MAGANUAM MURI, VIJAYAPURAM VILLAGE,
KOTTAYAM DISTRICT.**

BY ADV. SRI.AJITH MURALI

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, KOTTAYAM,
KOTTAYAM DISTRICT - 686 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
KOTTAYAM, KOTTAYAM DISTRICT - 686 001.**
- 3. THE SUB INSPECTOR OF POLICE,
MANARKAD POLICE STATION,
KOTTAYAM DISTRICT - 686 001.**

BY SENIOR GOVT. PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-03-2015 ALONG WITH WPC.9495/2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

mbr/

WP(C).No. 9494 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1 : THE TRUE COPY OF THE REPORT PREPARED BY THE
3RD RESPONDENT DATED 18.3.2015.**

**EXHIBIT P2 : PHOTO COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE 3RD RESPONDENT DATED 18.3.2015.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

W.P.(C) Nos.9494 & 9495 of 2015

Dated this the 25th day of March, 2015

JUDGMENT

The petitioners, who are the owners of Tipper lorries bearing registration Nos.**KL-05-Y-2359** and **KL-05-Y-3541** respectively, are aggrieved of the seizure of the vehicles by the third respondent on 18.03.2015, alleging that the above vehicles were being used for extraction and loading of 'red earth'.

2. The learned Counsel for the petitioners submits that the petitioners are ready to compound the offence and that an opportunity might be given to get the vehicles released, after satisfying the compounding fee.

3. The issue involved in this case is, whether the petitioners, who have 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, 2015 is entitled to have the offence compounded in view

of the desire expressed from the part of the petitioners in this regard.

4. Heard the learned Government Pleader as well.

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 third respondent to consider the applications filed by the petitioners to compound the offence; and pass appropriate orders forthwith, subject to satisfaction of a sum of **Rs.25000/-** in respect of each vehicle as the compounding fee. Once the offence is compounded, no prosecution proceedings shall lie against the petitioners.

The petitioners shall produce a copy of this judgment, along with a copy of this writ petition, before the third respondent, for further steps.

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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