

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 12258 of 2013 (F)

PETITIONER(S):

- 1. IBRAHIM, S/O.MUHAMMED HAJI,AGED 26 YEARS, ALUNGAL HOUSE,
OMACHAPUZHA P.O., OZHOOR VILLAGE, THIRUR TALUK,
MALAPPURAM (OWNER OF LORRY BEARING
REGISTRATION NUMBER KL-55-J-1193)**
- 2. SRIRANGAN V, S/O.VELLAYAN, AGED 45 YEARS, RESIDING AT 9/230 A,
9/335, KALLUKOTTAYIL, ULIPURAM P.O.,
GANNAVALLY TALUK, SELAM DISTRICT, TAMILNADU
(OWNER OF JCB BEARING REGISTRATION NUMBER TN-34-L-4037).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

**THE VILLAGE OFFICER,
OZHUR VILLAGE, MALAPPURAM DISTRICT, PIN-680 581**

R BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD/

WP(C).No. 12258 of 2013 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1:TRUE COPY OF THE MAHAZAR PREPARED BY THE RESPONDENT
DATED 26.4.2013**

**EXHIBIT P2:TRUE COPY OF THE INTERIM ORDER OF THIS HONOURABLE COURT
DATED 14.12.2012 IN WPC NO. 29993/2012**

**EXHIBIT P3:TRUE COPY OF THE INTERIM ORDER OF THIS HONOURABLE COURT
DATED 23.4.2013 IN WPC NO.11124 OF 2013**

**EXHIBIT P4:TRUE COPY OF THE INTERIM ORDER OF THIS HONOURABLE COURT
DATED 30.4.2013 IN WPC NO. 11619 OF 2013**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

P.R.RAMACHANDRA MENON, J.

W.P.(C).No.12258 of 2013

Dated this the 2nd day of March, 2015

JUDGMENT

The vehicles bearing Nos.KL-55-J-1193 and TN-34-L-4037 were seized by the respondent alleging offence under the MMDR Act/KMMC Rules. The main ground of challenge is that, the respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala** [2014(1) KLT 536]. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment rendered by a Division Bench of this Court in **Construction Materials Movers Association V. State of Kerala** [2008 (4) KLT 909]. In the said circumstance, there is no tenable ground to call for interference.

4. When the matter came up for consideration on **10.5.2013**, the vehicle was caused to be released, **on execution of a simple bond**. In the said circumstance, the further course of action

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required is to surrender the vehicle before the respondent, so as to enable the respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioner expresses desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioner to have it compounded on satisfying the compounding fee of ₹25,000/- within **two weeks** from the date of receipt of a copy of this judgment. Once the offence is compounded, no prosecution proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police** [2013(1) KLT 600]. It shall be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in compounding the offence, the respondent shall pursue further steps to **seize the vehicle** and proceed with steps for prosecution.

The writ petition is disposed of.

Sd/-

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

rkc.