

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No.10254 of 2015 (F)

PETITIONERS:

1. **ELDHOSE,S/O.ULAHANNAN,AGED 41 YEARS,
KUNNATHU HOUSE,MARKET P.O.,VELLOORKUNNAM VILLAGE,
MUVATTUPUZHA TALUK,ERNAKULAM DISTRICT,
(OWNER OF EXCAVATOR HITACHI MODEL EX 110).**
2. **MANIKANDAN,S/O.RAMSWAMI,AGED 34 YEARS,
CHETTIVALAKATH,KANNATTUVILAY P.O.,
ERANIYAL VILLAGE,KALKULAM TALUK,
KANYAKUMARI DISTRICT,
(OWNER OF EXCAVATOR HITACHI MODEL EX 110).**

BY ADV.SRI.P.M.ZIRAJ

RESPONDENT:

**THE SUB INSPECTOR OF POLICE,
KOTHAMANGALAM POLICE STATION,
ERNAKULAM DISTRICT,PIN-682521.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

W.P(C) NO.10254/2015

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:TRUE COPY OF THE FIRST INFORMATION REPORT DATED 17.3.2015
NO.0481 PREPARED BY THE RESPONDENT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

W.P.(C) No.10254 of 2015

Dated this the 30th day of March, 2015

JUDGMENT

Petitioners are aggrieved of the seizure of their vehicles (Excavator HITACHI Model EX 110) by the respondent on 17.03.2015 alleging illegal excavation of 'paddy land'. As per Ext.P1, the offence involved in Crime No.481 of 2015 of the concerned Police Station is of under Section 21, read with Section 4(1A) of the MMDR Act.

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 respondent to consider the application 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 respondent, for further steps.

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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